IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

CIVIL REVISION No. 684 of 2018

RAMRATAN AND OTHERS

Versus

LAKHAN SINGH AND OTHERS

Appearance:

Mr. S.K. Shrivastava - Advocate for applicants.

Ms. Suhani Dhariwal – Advocate for respondents Nos. 1 to 4.

Reserved on : 03/09/2025
Pronounced on : 08/09/2025

ORDER

This civil revision under Section 115 of CPC has been filed against the order dated 29-08-2018 passed by Additional Judge, Lateri to the Court of Civil Judge, Class-I, Vidisha, in M.J.C. No. 03/2016, by which an application filed by applicants under Section 151 of CPC has been rejected.

2. The facts necessary for disposal of present revision, in short, are that one Motilal filed a suit for recovery of possession on the basis of title. Civil Suit No. 121A/1973 was dismissed vide judgment and decree dated 24-12-1975. Motilal challenged the aforesaid judgment and decree by filing Appeal No. 162-A/1978, and the said appeal was allowed by judgment and decree dated 27-08-1984, and a decree for restoration of possession was granted. Said judgment and decree was challenged by the judgment debtor by filing Second Appeal No. 180/1984, and this Court by order dated 12-10-1984 stayed the execution of the decree. Meanwhile, Motilal filed an application for execution of judgment and decree passed by the First Appellate Court, but in view of the interim order, execution proceedings remained stayed. Second Appeal No. 180/1984 was dismissed by this Court by order dated 11-12-1984 at motion stage itself. However, the execution proceedings remained pending awaiting the order passed by the High Court. The case was continuously listed after 11-12-1984 and the same was adjourned awaiting the order. Respondent never informed the executing Court that appeal has already been dismissed on 11-12-1984. On 01-08-1989, the case was listed before the executing Court, but on the said date, Presiding Officer was on leave and the matter was adjourned for 03-10-1989. On 03-10-1989, counsel for the decree holder Motilal did not appear and execution proceedings were dismissed for want of prosecution.

3. It is the case of applicants that since Motilal was under *bona fide* belief that there is an interim order passed by this Court, therefore he never

contacted his counsel in the execution proceedings. Later on, Motilal died and even the judgment debtor Harnam Singh also died. The legal representatives of Motilal, who are the applicants, were not having any knowledge regarding the order passed by the High Court on 11-12-1984 in Second Appeal No. 180/1984. Accordingly, in the year 2016, they tried to find out the status of the case, then on 20-10-2016, present applicants came to know about the order passed in S.A. No. 180/1984. Thereafter they searched for the status of the execution case and came to know that execution was already dismissed in default on 03-10-1989. It is submitted that since the order dated 03-10-1989 should not have been passed without issuing notice to the decree holder, therefore, an application was preferred by applicants before the executing Court under Section 151 of CPC with a prayer that order dated 03-10-1989 be cancelled and possession of the property may be delivered to the decree holder.

4. Respondents filed their reply and prayed for dismissal of the application filed under Section 151 of CPC.

5. The Court below by order dated 29-08-2018 has dismissed the application filed under Section 151 of CPC mainly on the ground that if applicants were aggrieved by the order dated 03-10-1989, then they could have assailed the same before the higher forum. It was further held that initiation of the execution proceedings afresh for delivery of possession at this stage is not desirable.

6. Challenging the order passed by the Court below, it is submitted by counsel for applicants that no period of limitation is provided for exercising power under Section 151 of CPC. It is submitted that an execution proceeding can be dismissed for want of prosecution under Order 21 Rule 105 of CPC, provided the same is listed for "hearing". It is submitted that the case was never listed for "hearing", but it was listed for awaiting the further orders from the High Court, and therefore, the execution proceedings could not have been dismissed on 03-10-1989 and relied upon the judgment passed by Coordinate Bench of this Court in the case of **Khoobchand and another vs. Kashi Prasad and others**, reported in **1986 JAB LJ 42**, and submitted that for maintaining an application under Section 151 of CPC no period of limitation is provided.

7. Per contra, the revision is vehemently opposed by counsel for respondents.

8. Heard learned counsel for parties.

9. In order to adjudicate the lis, this Court would like to summarize the facts;

(i) On 27-08-1984 a decree for restoration of possession was granted in favour of Motilal, who is the predecessor of applicants.

(ii) S.A. No. 180/1984 was filed by the judgment debtor, and this Court by order dated 12-10-1984 stayed the execution of the decree.

(iii) S.A. No. 180/1984 was dismissed by this Court at the motion stage by order dated 11-12-1984.

(iv) In the meanwhile, the decree holder Motilal had already filed an application for execution, but in view of the interim order passed by this Court, the execution proceedings were kept in abeyance and order dated 11-12-1984, by which S.A. No. 180/1984 was dismissed in *limine*, was never brought to the notice of the executing Court.

(v) On 01-08-1989, the Presiding Officer of the executing Court was on leave, and accordingly, the case was adjourned for 03-10-1989.

(vi) On 03-10-1989, counsel for the decree holder did not appear, and accordingly, execution proceedings were dismissed for want of prosecution.

10. Applicants filed an application under Section 151 of CPC on 24-11-2016, i.e., after 27 years of dismissal of execution proceedings for restoration of possession.

11. Order 21 Rule 105 of CPC reads as under:

> "***105. Hearing of application.-****(1) The Court, before which an application under any of the foregoing rules of this Order is pending, may fix a day for the hearing of the application.*

> *(2) Where on the day fixed or on any other day to which the hearing may be adjourned the applicant does not appear when the case is called on for hearing, the Court may make an order that the application be dismissed.*
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> *(3) Where the applicant appears and the opposite party to whom the notice has been issued by the Court does not appear, the Court may hear the application ex parte and pass such order as it thinks fit."*

From plain reading of aforesaid provision, it is clear that if the execution proceedings are fixed for "hearing", and if decree holder or his counsel do not appear, then execution proceedings can be dismissed for want of prosecution under section 105(2) of CPC.

12. In the present case, the case was listed for awaiting the order passed by the High Court and it was not listed for "hearing". Therefore, under these circumstances, this Court is of considered opinion that the executing Court should not have dismissed the execution proceedings for want of prosecution, and such order cannot be treated as an order u/s 105(2) of CPC.

13. Thus, it is held that application for restoration can be considered u/s 151 of CPC and provisions of section 106(3) of CPC would not apply.

14. It is contended by counsel for applicants that since the execution proceedings were not dismissed under Order 21 Rule 105(2) of CPC, therefore, no application under Order 21 Rule 106 of CPC was maintainable, and no period of limitation was provided. It is submitted that limitation of 30 days, as provided under Rule 106 of Order 21 of CPC, is applicable only

when the order of dismissal is passed by the executing Court where the case is listed for "hearing". It is submitted that under these circumstances, the executing Court has inherent power under Section 151 of CPC for restoration of execution proceedings.

15. Considered the submissions made by counsel for applicants.

16. The Coordinate Bench of this Court in the case of **Khoobchand (supra)** has held that where the provisions of Order 21 Rule 105(2) of CPC are not attracted, then such dismissal can be set aside in exercise of power under Section 151 of CPC, and therefore, no period of limitation would apply for invoking inherent powers of the Court. As already pointed out, in the present case, execution case was not fixed for "hearing" and it was merely fixed for awaiting the outcome of the second appeal. Therefore, dismissal of the execution proceedings by the Court below cannot be said to be in exercise of power under Order 21 Rule 105(2) of CPC. Therefore, provisions of Order 21 Rule 106 of CPC would not apply, and thus, the Court in exercise of power under Section 151 of CPC can restore the execution proceedings.

17. Under these circumstances, this Court is of considered opinion that the observation made by the executing Court that the applicants could have challenged the order dated 03-10-1989 before the higher forum is not the correct proposition of law because when the proceedings are dismissed for want of prosecution, then the aggrieved party has twin remedies, i.e., to

assail the order before the higher forum, or to file an application for restoration of the proceedings.

18. Now the only question for consideration is as to whether application filed under Section 151 of CPC for restoration of execution proceedings after 27 years can be said to be within a period of limitation or not?

19. As already pointed out, for exercising power under Section 151 of CPC, no period of limitation is prescribed.

20. Now the only question for consideration is as to whether an application for restoration of execution proceedings can be filed after 27 long years or not?

21. It is a well-established principle of law that when there is no express provision for limitation in regard to the exercise of a right to assail the order, then such power should be exercised within a reasonable period. The Supreme Court in the case of **State of Punjab and Others v. Bhatinda District Cooperative Milk Producers Union Ltd.**, reported in **(2007) 11 SCC 363**, has held as under:-

> "*18. It is trite that if no period of limitation has been prescribed, statutory authority must exercise its jurisdiction within a reasonable period. What, however, shall be the reasonable period would depend upon the nature of the statute, rights and liabilities thereunder and other relevant factors.*"

The Supreme Court in the case of **Securities and Exchange Board of India v. Sunil Krishna Khaitan and Others**, reported in **(2023) 2 SCC 643**, has held as under:

> "*92. This Court in the judgment authored by one of us (Sanjiv Khanna, J.) in Bhavesh Pabari [SEBI v. Bhavesh Pabari, (2019) 5 SCC 90] had examined the question of delay and laches in initiating proceedings under Chapter VI-A of the Act and the principle of law that when no limitation period is prescribed proceedings should be initiated within a reasonable time and what would be reasonable time would depend upon facts and circumstances of each case. In this regard, it was held as under : (SCC pp. 104-05, para 35)*
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> > *"35. The appellants have also contended that in the absence of any prescribed limitation period, SEBI should have issued show-cause notice within a reasonable time and there being a delay of about 8 years in issuance of show-cause notice in 2014, the proceedings should have been dropped. This contention was not raised before the adjudicating officer in the written submissions or the reply furnished. It is not clear whether this contention was argued before the Appellate Tribunal. There are judgments which hold that when the period of limitation is not prescribed, such power must be exercised within a reasonable time. What would be reasonable time, would depend upon the facts and circumstances of the case, nature of the default/statute, prejudice caused, whether the third-party rights had been created, etc. The show-cause notice in the present case had specifically referred to the respective dates of default and the date of compliance, which was made between 30-8-2011 to 29-11-2011 (delay was between 927 days to 1897 days). Only upon compliance being made that the*

> *defaults had come to notice. In the aforesaid background, and so noticing the quantum of fine/penalty imposed, we do not find good ground and reason to interfere."*

93. The directions given in the aforesaid quotation should not be understood as empowering the authorities/Board to initiate action at any time. In the absence of any period of time and limitation prescribed by the enactment, every authority is to exercise power within a reasonable period. What would be the reasonable period would depend upon facts of each case, such as whether the violation was hidden and camouflaged and thereby the Board or the authorities did not have any knowledge. Though, no hard and fast rules can be laid down in this regard as determination of the question will depend on the facts of each case, the nature of the statute, the rights and liabilities thereunder and other consequences, including prejudice caused and whether third party rights have been created are relevant factors. Whenever a question with regard to inordinate delay in issuance of a show-cause notice is made, it is open to the noticee to contend that the show-cause notice is bad on the ground of delay and it is the duty of the authority/officer to consider the question objectively, fairly and in a rational manner. There is public interest involved in not taking up and spending time on stale matters and, therefore, exercise of power, even when no time is specified, should be done within reasonable time. [See State of Gujarat v. Patil Raghav Natha, (1969) 2 SCC 187, para 11; Mansaram v. S.P. Pathak, (1984) 1 SCC 125, para 12; Union of India v. Citedal Fine Pharmaceuticals, (1989) 3 SCC 483, para 6 : 1989 SCC (Tax) 464; State of Orissa v. Brundaban Sharma, 1995 Supp (3) SCC 249, para 16; State of Punjab v. Bhatinda District Coop. Milk Producers Union Ltd., (2007) 11 SCC 363.] This prevents miscarriage of justice, misuse and abuse of the power as well as ensures that the violation of the provisions are checked and penalised without delay, thereby effectuating the purpose behind the enactment."

The Supreme Court in the case of **Jagadish v. State of Karnataka and Others**, reported in **(2021) 12 SCC 812**, has held as under:

> "*12. There are a number of issues raised before us calling for the inter se play of the Inams Abolition Act and the SC and ST Act. We, however, do not see the need to examine them as, according to us, the appellant is disentitled to any relief on the short ground of having knocked the doors of the authorities concerned three decades after the SC and ST Act came into force. It is this very aspect which forms subject-matter of debate in a number of judgments and finally in Satyan case [Satyan v. Commr., (2020) 14 SCC 210] , (they have been discussed in para 12 extracted hereinabove). It was recognised that there was no limitation of time prescribed but it should be exercised within a reasonable period of time. It is in that context that period of 20 years has been said to be too long a period for calling for interference by the authorities concerned. Leave the said period, in the present case, we are confronted with the factual situation of 30 years' period between the rights accruing and the exercise of rights. In the meantime, the lands have been developed by the private respondents who, according to us, is bona fide purchaser of the land and created infrastructure on the same. It does seem now an endeavour of the appellant to only extract some amount knowing fully well the kind of establishment which has come up on the land in question. We cannot be a part to such endeavour. We are, thus, of the view that in the conspectus of the legal position discussed aforesaid and the facts referred to by us, the appellant is disentitled to any relief on this short ground of an inordinate delay in seeking to avail of their remedy in limine. Insofar as the other aspects raised in the present appeals are concerned, we are leaving the questions of law open since we are not required to comment on the same for adjudication of the present controversy."*

Thus, it is clear that when the statue does not prescribe limitation, then rights conferred therein must be exercised within reasonable time.

22. The Supreme Court in the case of **Madras Aluminium Co. Ltd. v. Tamil Nadu Electricity Board and Another**, reported in **(2023) 8 SCC 240**, has held as under:

> "*41. This case hinges on what would be construed to be "reasonable time" to consider any application for reduction in maximum demand, by the authorities. A three-Judge Bench of this Court in SEBI v. Bhavesh Pabari [SEBI v. Bhavesh Pabari, (2019) 5 SCC 90] has observed that : (SCC pp. 104-105, para 35)*
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> > *"35. ... There are judgments which hold that when the period of limitation is not prescribed, such power must be exercised within a reasonable time. What would be reasonable time, would depend upon the facts and circumstances of the case, nature of the default/statute, prejudice caused, whether the third-party rights had been created, etc."*
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> *42. In Mansaram v. S.P. Pathak [Mansaram v. S.P. Pathak, (1984) 1 SCC 125] this Court has observed that when a power exists to effectuate a purpose it must be exercised within a reasonable time. It has been observed that this is all too well-settled principle to require buttressing precedent. Nonetheless, the Court refers to State of Gujarat v. Patil Raghav Natha [State of Gujarat v. Patil Raghav Natha, (1969) 2 SCC 187] wherein the period of one year was found to be too long for the Commissioner to exercise revisional jurisdiction under Section 211 of the Bombay Land Revenue Code. The principle of reasonable time as mentioned herein was followed recently by a two-Judge Bench in SEBI v. Sunil Krishna Khaitan [SEBI v. Sunil Krishna Khaitan, (2023) 2 SCC 643] ."*

The Supreme Court in the case of **Purohit and Company. v. Khatoonbee and Another**, reported in **(2017) 4 SCC 783**, has held as under:

> "*11. In support of the contention advanced at the hands of the learned counsel for the appellant, as has been noticed in the foregoing paragraph, the learned counsel invited our attention to Corporation Bank v. Navin J. Shah [Corporation Bank v. Navin J. Shah, (2000) 2 SCC 628] , wherein a claim for compensation had been raised under the Consumer Protection Act, 1986, wherein also, there was no period of limitation prescribed (at the time, when the claim was raised). Dealing with the question in hand, this Court had recorded the following observations : (SCC p. 635, para 12)*
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> > *"12. We may further notice that there is another strong reason as to why the claim made by the respondent should not have been granted. The transactions in question took place in the years 1979 and 1981. The difficulties in realisation of the amounts due from the consignee also became clear at the time when the claim was made before the Corporation and the claim had been made as early as on 19-12-1982. The petition before the Commission was filed on 25-9-1992 that is clearly a decade after a claim had been made before the Corporation. A claim could not have been filed by the respondent at this distance of time. Indeed at the relevant time there was no period of limitation under the Consumer Protection Act to prefer a claim before the Commission but that does not mean that the claim could be made even after an unreasonably long delay. The Commission has rejected this contention by a wholly wrong approach in taking into consideration that the foreign exchange payable to Reserve Bank of India was still due and, therefore, the claim is alive. The claim of the*

> *respondent is from the Bank. At any rate, as stated earlier, when the claim was made for indemnifying the losses suffered from the Corporation, it was clear to the parties about the futility of awaiting any longer for collecting such amounts from the foreign bank. In those circumstances, the claim, if at all was to be made, ought to have been made within a reasonable time thereafter. What is reasonable time to lay a claim depends upon the facts of each case. In the legislative wisdom, three years' period has been prescribed as the reasonable time under the Limitation Act to lay a claim for money. We think that period should be the appropriate standard adopted for computing reasonable time to raise a claim in a matter of this nature. For this reason also we find that the claim made by the respondent ought to have been rejected by the Commission."*
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> *(emphasis supplied)*

It would be pertinent to mention, that the claim raised under the Consumer Protection Act, in the above judgment, was delayed by a period of 10 years, and even though, no period of limitation was prescribed, this Court held, that the same was not maintainable.

12. Reliance was also placed on Haryana State Coop. Land Development Bank v. Neelam [Haryana State Coop. Land Development Bank v. Neelam, (2005) 5 SCC 91 : 2005 SCC (L&S) 601] , wherein, this Court held as under : (SCC pp. 98-100, paras 17-23)

> *"17. In Nedungadi Bank Ltd. [Nedungadi Bank Ltd. v. K.P. Madhavankutty, (2000) 2 SCC 455 : 2000 SCC (L&S) 283] , a Bench of this Court, where S. Saghir Ahmad was a member (his Lordship was also a member in Ajaib Singh [Ajaib Singh v. Sirhind Coop. Mktg.-cum-Processing Service Society Ltd., (1999) 6*

SCC 82 : 1999 SCC (L&S) 1054]) opined : (SCC pp. 459-60, para 6)

> *'6. Law does not prescribe any time-limit for the appropriate Government to exercise its powers under Section 10 of the Act. It is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after a lapse of about seven years of the order dismissing the respondent from service. At the time reference was made no industrial dispute existed or could be even said to have been apprehended. A dispute which is stale could not be the subject-matter of reference under Section 10 of the Act. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case. When the matter has become final, it appears to us to be rather incongruous that the reference be made under Section 10 of the Act in the circumstances like the present one. In fact it could be said that there was no dispute pending at the time when the reference in question was made.'*

18. It is trite that the courts and tribunals having plenary jurisdiction have discretionary power to grant an appropriate relief to the parties. The aim and object of the Industrial Disputes Act may be to impart social justice to the workman but the same by itself would not mean that irrespective of his conduct a workman would automatically be entitled to relief. The procedural laws like estoppel, waiver and acquiescence are equally applicable to the industrial

proceedings. A person in certain situation may even be held to be bound by the doctrine of acceptance sub silentio. The respondent herein did not raise any industrial dispute questioning the termination of her services within a reasonable time. She even accepted an alternative employment and has been continuing therein from 10-8-1988. In her replication filed before the Presiding Officer of the Labour Court while traversing the plea raised by the appellant herein that she is gainfully employed in HUDA with effect from 10-8-1988 and her services had been regularised therein, it was averred:

> *'6. The applicant workman had already given replication to the ALC-cum-Conciliation Officer, stating therein that she was engaged by HUDA from 10-8-1988 as clerk-cum-typist on daily-wage basis. The applicant workman has the right to come to the service of the management and she is interested to join them.'*

19. She, therefore, did not deny or dispute that she had been regularly employed or her services had been regularised. She merely exercised her right to join the service of the appellant.

20. It is true that the respondent had filed a writ petition within a period of three years but indisputably the same was filed only after the other workmen obtained the same relief from the Labour Court in a reference made in that behalf by the State. Evidently in the writ petition she was not in a position to establish her legal right so as to obtain a writ of or in the nature of mandamus directing the appellant herein to reinstate her in service. She was advised to withdraw the writ petition presumably because she would not have obtained any relief in the said proceeding. Even the High Court could

have dismissed the writ petition on the ground of delay or could have otherwise refused to exercise its discretionary jurisdiction. The conduct of the respondent in approaching the Labour Court after more than seven years had, therefore, been considered to be a relevant factor by the Labour Court for refusing to grant any relief to her. Such a consideration on the part of the Labour Court cannot be said to be an irrelevant one. The Labour Court in the aforementioned situation cannot be said to have exercised its discretionary jurisdiction injudiciously, arbitrarily and capriciously warranting interference at the hands of the High Court in exercise of its discretionary jurisdiction under Article 226 of the Constitution.

21. The matter might have been different had the respondent been appointed by the appellant in a permanent vacancy.

22. Both HUDA and the appellant are statutory organisations. The service of the respondent with the appellant was an ad hoc one. She served the appellant only for a period of one year three months; whereas she had been serving HUDA for more than sixteen years. Even if she is directed to be reinstated in the services of the appellant without back wages as was directed by the High Court, the same would remain an ad hoc one and, thus, her services can be terminated upon compliance with the provisions of the Industrial Disputes Act. It is also relevant to note that there may or may not now be any regular vacancy with the appellant Bank. We have noticed hereinbefore that in the year 1996, the vacancies had been filled up and a third-party right had been created. It has not been pointed out to us that there exists a vacancy. Having considered the equities between the parties, we are of the opinion that it was not a fit case where the High Court should have interfered

with the discretionary jurisdiction exercised by the Labour Court.

23. For the reasons aforementioned, the impugned judgment cannot be sustained which is set aside accordingly. This appeal is allowed. However, in the facts and circumstances of the case, there shall be no order as to costs."

(emphasis supplied)

13. It would be relevant to mention, that the above judgment was rendered in a matter, where the challenge was raised under the provisions of the Industrial Disputes Act, 1947, wherein also no period of limitation is prescribed to approach the Industrial Tribunal. Despite the above, this Court arrived at the conclusion, that a claim raised after a period of 7 years, was not a surviving claim. And therefore, the claim petition was held to be not maintainable.

14. Drawing an analogy to the judgments rendered under the Consumer Protection Act, 1986, as also, under the Industrial Disputes Act, 1947, it was the submission of the learned counsel for the appellant, that even though no period of limitation remains prescribed, after the amendment of Section 166 of the Motor Vehicles Act, 1988, whereby sub-section (3) of Section 166 came to be deleted (with effect from 14-11-1994), yet it would be imperative to determine, whether at the juncture when the claimant approached the Motor Accidents Claims Tribunal, the claim was a live and surviving claim.

15. We are satisfied, that the submission advanced at the hands of the learned counsel for the appellant merits acceptance. The judgments on which the High Court had relied, and on which the respondents have emphasised, in our considered view, are not an impediment, to the acceptance of the submission canvassed on behalf of the appellant. We say so, because in Dhannalal case [Dhannalal v. D.P. Vijayvargiya, (1996) 4 SCC 652 : 1996 SCC

> *(Cri) 816] the question of inordinate delay in approaching the Motor Accidents Claims Tribunal, was not considered. In the second judgment in C. Padma case [New India Assurance Co. Ltd. v. C. Padma, (2003) 7 SCC 713 : 2003 SCC (Cri) 1709] , it was considered. And in C. Padma case [New India Assurance Co. Ltd. v. C. Padma, (2003) 7 SCC 713 : 2003 SCC (Cri) 1709] , the first conclusion drawn in SCC p. 718, para 12 was "… if otherwise the claim is found genuine…". We are of the considered view, that a claim raised before the Motor Accidents Claims Tribunal, can be considered to be genuine, so long as it is a live and surviving claim. We are satisfied in accepting the declared position of law, expressed in the judgments relied upon by the learned counsel for the appellant. It is not as if, it can be open to all and sundry, to approach a Motor Accidents Claims Tribunal, to raise a claim for compensation, at any juncture, after the accident had taken place. The individual concerned, must approach the Tribunal within a reasonable time."*

The Supreme Court in the case of **Satyan v. Deputy Commissioner and Others**, reported in **(2020) 14 SCC 210**, has held as under:

> "*12. The second limb of the submission of Mr Dave, learned Senior Counsel for the appellant, was that settled transactions cannot be disturbed after a long period of time. The transactions were of the year 1997. They were sought to be unsettled after almost eight (8) years, by preferring an application in the year 2005. To support this plea, he referred to the following judicial pronouncements:*
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> > *12.1.Ibrahimpatnam Taluk Vyavasaya Coolie Sangham v. K. Suresh Reddy [Ibrahimpatnam Taluk Vyavasaya Coolie Sangham v. K. Suresh Reddy, (2003) 7 SCC 667] — the question posed to be decided in the appeal is referred to in para 1 and the question has been answered in para 19. Both paras 1 and 19 are read as under : (SCC pp. 671 & 680)*

> *"1. In all these appeals, the following question of law arises for consideration:*
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> *'Whether the Collector can exercise suo motu power under sub-section (4) of Section 50-B of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 at any time or such power is to be exercised within a reasonable time.'*
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> ***
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> *19. It is also necessary to note that the suo motu power was sought to be exercised by the Joint Collector after 13-15 years. Section 50-B was amended in the year 1979 by adding sub-section (4), but no action was taken to invalidate the certificates in exercise of the suo motu power till 1989. There is no convincing explanation as to why the authorities waited for such a long time. It appears that sub-section (4) was added so as to take action where alienations or transfers were made to defeat the provisions of the Land Ceiling Act. The Land Ceiling Act having come into force on 1-1-1975, the authorities should have made inquiries and efforts so as to exercise the suo motu power within reasonable time. The action of the Joint Collector in exercising suo motu power after several years and not within reasonable period and passing orders cancelling validation certificates given by the Tahsildar, as rightly held [Ibrahimpatnam Taluk Vyavasaya Coolie Sangam v. K. Suresh Reddy, (1996) 2 Andh WR 511] by the High Court, could not be sustained."*

The ratio, thus, is that such suo motu powers have to be exercised within a reasonable period of time.

12.2.Situ Sahu v. State of Jharkhand [Situ Sahu v. State of Jharkhand, (2004) 8 SCC 340] — the exercise of power in

> *respect of transactions, which required prior sanction of the Deputy Commissioner was again observed to be one which had to be exercised within a reasonable period of time.*
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> *12.3.Chhedi Lal Yadav v. Hari Kishore Yadav [Chhedi Lal Yadav v. Hari Kishore Yadav, (2018) 12 SCC 527 : (2018) 5 SCC (Civ) 427] — the view expressed is the same as in the aforesaid two judgments in para 13, as under : (SCC p. 530)*
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> > *"13. In our view, where no period of limitation is prescribed, the action must be taken, whether suo motu or on the application of the parties, within a reasonable time. Undoubtedly, what is reasonable time would depend on the circumstances of each case and the purpose of the statute. In the case before us, we are clear that the action is grossly delayed and taken beyond reasonable time, particularly, in view of the fact that the land was transferred several times during this period, obviously, in the faith that it is not encumbered by any rights."*
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> *12.4.Vivek M. Hinduja v. M. Ashwatha [Vivek M. Hinduja v. M. Ashwatha, (2020) 14 SCC 228] — the provisions of the said Act were in issue, where suo motu action was sought to be taken in 1998, in respect of transactions of the vintage 1967, and this was held to be a long delay, which did not warrant the exercise of such power."*

Thus, it is clear that when no limitation is prescribed, it would be inappropriate for a court to supplant the legislature's wisdom by its own and provide a limitation more so in accordance with what it believe to be the appropriate period. Where a party to a dispute raises a plea of delay despite no specific period being prescribed in the statute, then such a party also bears the burden of demonstrating how the delay in itself would cause the party

additional prejudice or loss so oppose to, the claim subject matter of dispute, being raised at an earlier point of time.

23. Under these circumstances, it is held that when a statute does not provide a period of limitation, then rights must be exercised within a reasonable period.

24. Now the question for consideration is what should be the reasonable period for filing an application for restoration of the execution proceedings?

25. In the present case, a decree for possession was passed. Article 65 of the Limitation Act provides for a limitation of 12 years from the day when possession became adverse.

26. Under these circumstances, this Court is of considered opinion that where execution proceedings were dismissed for want of prosecution, then the reasonable period for filing an application for restoration of execution proceedings should be 12 years. In the present case, application for restoration of execution proceedings was filed after 27 long years. By no stretch of imagination this long period of 27 years can be said to be a reasonable period.

27. Accordingly, this Court is of considered opinion that the application filed by applicants for restoration of execution proceedings after 27 long years of dismissal of execution proceedings for want of prosecution cannot be said to be within reasonable period.

28. Accordingly, this Court is of considered opinion that the Court below did not commit any mistake by rejecting the application filed under Section 151 of CPC for restoration of execution proceedings.

29. Accordingly, order dated 29-08-2018 passed by Additional Judge, Lateri to the Court of Civil Judge, Class-I, Vidisha, in M.J.C. No. 03/2016, is hereby affirmed.

30. Revision fails and is hereby **dismissed**.

(G.S. Ahluwalia)
Judge

AKS