



CIVIL

The Limitation Clock Starts with Inquiry, Not Ignorance: Supreme Court on Probate Revocation

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AUTHOR Rahul Sundaram, Ritika Dedhia

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Introduction

The Supreme Court has once again highlighted that the law aids the vigilant and not those who sleep over their rights. In *Dhiraj Dutta v. Anirban Sen & Ors.*, the Court examined whether an application seeking revocation of probate nearly three decades after its grant could be sustained on the ground that the applicants acquired actual knowledge of the probate only much later. The case presented an opportunity for the Court to clarify the interplay between Section 263 of the Indian Succession Act, 1925 and Article 137 of the Limitation Act, 1963.

Holding that constructive notice is sufficient to trigger limitation, the Court ruled that parties who receive notices in proceedings affecting their claimed rights cannot deliberately ignore such notices and later plead ignorance of the underlying legal basis. The decision is an important precedent in probate litigation by reaffirming that challenges to grants of probate must be pursued within a reasonable time and with due diligence.

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Background of the Case

The dispute traces its origin to the estate of Gouriprova Sen, who inherited certain properties from her husband, Amulya Chandra Sen, as his sole legal heir. During her lifetime, she had also gifted a portion of the property to her nephew, Dhiraj Dutta. Subsequently, on 9 July 1989, Gouriprova Sen executed a Will appointing Dhiraj Dutta as the sole executor and beneficiary of her estate. Following her demise on 8 October 1989, Dhiraj Dutta sought probate of the Will, which was granted by the Calcutta High Court on 28 September 1995.

For several years thereafter, the probate remained unchallenged. In 2010–11, the appellant initiated proceedings to have the revenue records mutated in his favour on the strength of the probated Will. According to him, notices relating to these mutation proceedings were duly served upon the predecessors-in-interest of the respondents in 2013. The respondents, however, claimed that they did not appreciate the significance of those proceedings and only became aware of the probate much later.

The respondents, who are nephews-in-law of the testatrix and among the surviving members of her husband's family, asserted that they first discovered the existence of the probate in 2019. Following this alleged discovery, they instituted a title suit seeking declarations and injunctive reliefs concerning the disputed properties. Thereafter, in July 2022 nearly twenty-seven years after the grant of probate they filed an application under Section 263 of the Indian Succession Act, 1925 seeking revocation of the probate granted in favour of the appellant.

The appellant opposed the revocation proceedings on the ground that they were hopelessly barred by limitation. While the Single Judge accepted this contention and dismissed the application, the Division Bench took a contrary view and allowed the revocation proceedings to continue. The divergent findings of the High Court ultimately brought the matter before the Supreme Court, which was called upon to determine the crucial question of when the respondents' right to seek revocation accrued and whether their application was filed within the limitation period prescribed under Article 137 of the Limitation Act, 1963.

Proceedings Before the High Court

The Single Judge dismissed the revocation application as barred by limitation, holding that the respondents had knowledge, or at least sufficient notice, much earlier than claimed.

On appeal, the Division Bench reversed this finding and permitted the revocation proceedings to continue. The matter eventually reached the Supreme Court, which was called upon to determine whether the 2022 revocation application was filed within the period prescribed by law.

Statutory Framework

The controversy before the Supreme Court centred on the interplay between Section 263 of the Indian Succession Act, 1925 and Article 137 of the Limitation Act, 1963. While Section 263 confers the power upon a competent court to revoke or annul a grant of probate or letters of administration for “just cause,” the Indian Succession Act does not prescribe any specific limitation period for invoking such power. This legislative silence necessitated an examination of the residuary limitation provision contained in Article 137 of the Limitation Act.

Section 263 of the Indian Succession Act provides that a probate grant may be revoked where it has been obtained through fraud, concealment of material facts, defective proceedings, or on the basis of untrue allegations essential to the grant. The provision also contemplates revocation in situations where the grant subsequently becomes inoperative or where circumstances emerge that undermine the validity or efficacy of the probate. The underlying objective of the provision is to ensure that a probate obtained through procedural irregularities, misrepresentation, or other legally recognised infirmities does not continue to enjoy judicial sanction.

However, since the statute does not stipulate a timeframe within which an application for revocation must be filed, courts have consistently applied Article 137 of the Limitation Act, which prescribes a period of three years for “any other application” for which no specific limitation period is provided elsewhere. Under Article 137, the limitation period begins to run from the date on which the “right to apply accrues.”

The principal legal issue before the Court was therefore not whether Article 137 applied this position already stood settled by precedent but rather the determination of the point at which the respondents’ right to seek revocation accrued. Specifically, the Court was required to decide whether limitation commenced upon the respondents acquiring actual knowledge of the probate, as they contended, or whether earlier circumstances were sufficient to constitute constructive notice, thereby triggering the commencement of limitation at an earlier point in time.

In addressing this question, the Court relied upon its earlier decisions in *Lynette Fernandes v. Gertie Mathias*^[1] and *Ramesh Nivrutti Bhagwat v. Surendra Manohar Parakhe*^[2], which recognise that applications for revocation of probate fall within the ambit of Article 137. The case thus presented an opportunity for the Court to further clarify the meaning of the phrase “right to apply accrues” in the context of probate revocation proceedings and the role played by constructive notice in determining the commencement of limitation.

Supreme Court’s Analysis

The Supreme Court examined whether the respondents’ application for revocation of probate, filed in 2022, was within the three-year limitation period prescribed under Article 137 of the Limitation Act. The respondents argued that limitation commenced only in 2019, when they allegedly became aware of the probate. The appellant, however, contended that the respondents had received notice of mutation proceedings in 2013, which should have prompted them to investigate the basis of the appellant’s claim.

Relying on its earlier decisions in *Lynette Fernandes v. Gertie Mathias* and *Ramesh Nivrutti Bhagwat v. Surendra Manohar Parakhe*, the Court reiterated that limitation for seeking revocation of probate begins when the right to apply accrues, which depends on the applicant’s knowledge of the relevant facts.

The Court held that the notices served during the mutation proceedings constituted constructive notice of the appellant’s claim. It observed that a reasonably prudent person, upon receiving a court notice concerning property rights, would make inquiries into the nature and basis of such proceedings. By choosing to ignore the notices despite claiming an interest in the property, the respondents failed to exercise the diligence expected of them.

Consequently, the Court concluded that the respondents could not rely on their alleged actual knowledge in 2019 to extend the limitation period. Since they had sufficient opportunity to discover the probate much earlier, their application for revocation filed in 2022 was held to be barred by limitation. Accordingly, the Court restored the Single Judge’s order dismissing the application and set aside the contrary decision of the Division Bench.

Constructive Notice and the Standard of a Prudent Person

A key aspect of the judgment is its detailed discussion of the doctrine of constructive notice.

Drawing from earlier precedents, the Court observed that constructive notice is a legal inference arising from circumstances where a person either wilfully abstains from making inquiries or acts with gross negligence. Whether constructive notice exists depends on the facts of each case and must be assessed from the standpoint of a reasonably prudent person.

Applying this principle, the Court found that once the respondents received notice relating to mutation proceedings initiated by a third party over property in which they claimed rights, a prudent person would have undertaken inquiries to ascertain the basis of those proceedings. Such inquiry would inevitably have revealed the probate granted in favour of the appellant.

The Court emphasised that ignoring a court notice cannot be treated as reasonable conduct. Where legal proceedings have the potential to affect proprietary rights, parties are expected to exercise diligence and investigate the underlying claims.

Limitation Begins from Constructive Knowledge

Having concluded that the respondents had constructive notice of the probate well before 2019, the Court held that limitation under Article 137 could not be postponed merely because they chose not to investigate the matter.

The Court observed that the respondents' own pleadings were silent regarding the basis of their claimed title and failed to explain the prolonged inaction between 2013 and 2019. In such circumstances, permitting the limitation period to commence only upon alleged actual knowledge would effectively reward negligence and defeat the purpose of limitation law.

Accordingly, the Court held that the respondents' application for revocation of probate filed in 2022 was hopelessly barred by limitation.

Decision

Allowing the appeal, the Supreme Court set aside the judgment of the Division Bench and restored the order of the Single Judge dismissing the revocation application as time-barred.

Conclusion

The Supreme Court's decision reinforces the principle that the law of limitation is founded on diligence and cannot be defeated by deliberate inaction or indifference. By holding that constructive notice can trigger the commencement of limitation for revocation of probate proceedings, the Court clarified that parties cannot indefinitely postpone legal challenges by claiming lack of actual knowledge when circumstances reasonably required them to make further inquiries. The ruling not only reaffirms the applicability of Article 137 of the Limitation Act to applications under Section 263 of the Indian Succession Act but also strengthens the finality and certainty attached to probate grants. The judgment is therefore likely to be an important precedent in succession disputes, particularly where long-delayed challenges are sought to be justified on the basis of alleged ignorance of probate proceedings.

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1. (2018) 1 SCC 271 ?
2. (2020) 17SCC 284 ?

Related Practice Areas

Succession, Wills & Inheritance