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Limitation Period For Filing A Suit For Declaration Along With Recovery Of Possession Is 12 Years And Not 3 Years: Supreme Court

The Hon’ble Supreme Court (“SC”) in a recent decision[1] has laid down that the limitation period for filing a suit for declaration of title, along with a relief for the recovery of possession shall be 12 years from the date the possession of the defendant becomes adverse, in terms of Article 65 of the Schedule […]

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The Hon'ble Supreme Court ("**SC**") in a recent decision[1] has laid down that the **limitation period for filing a suit for declaration of title along with recovery of possession shall be 12 years** from the date the possession of the defendant becomes adverse, in terms of Article 65 of the Schedule to the Limitation Act, 1963 ("**the Act**"). The SC was dealing with an appeal from the High Court of Madras ("**HC**") involving a gift deed for certain property to be utilized for the purposes of manufacturing Khadi Lungi and Khadi Yarn, etc.

Table of contents

- Background of the Dispute
- Proceedings Before the Trial Court and Appellate Courts
- Observations of the Supreme Court
  - Validity of the Revocation Deed
  - Applicable Limitation Period – Article 58 vs Article 65
- Key Takeaway
- Endnotes
- Frequently Asked Questions
  - What is the limitation period for a suit for declaration of title along with recovery of possession?
  - Is the limitation period 3 years or 12 years for such a suit?
  - From when does the 12-year limitation period start running?

Background of the Dispute

The plaintiff in the present dispute had filed a suit before the relevant civil court in Tamil Nadu, for the **declaration of title** to the suit property on the basis of a registered gift deed dated 5th March, 1983 ("**said Gift Deed**"), allegedly executed by the defendant in favour of the plaintiff. Pertinently, the relief of recovery of possession was also sought by the plaintiff.

The defendant had pursued **revocation of the said Gift Deed** vide a revocation deed dated 17th August, 1987.

Proceedings Before the Trial Court and Appellate Courts

The **trial court** had decided the suit in favour of the defendant by upholding the purported revocation on the ground that the plaintiff had not acted on the said Gift Deed.

The plaintiff carried the matter in appeal before the relevant **District Judge**, who reversed the decision of the trial court and decreed the suit in the favour of the plaintiff.

The order of the appellate court was challenged in **second appeal before the HC**, which upheld the decision of the appellate court. The observations, in both rounds of appeal, were that the plaintiff had indeed acted on the said Gift Deed and that the defendant had never reserved its right to revoke the same.

Challenging the decision of the second appellate court, the defendant preferred the present **civil appeal by way of a special leave petition** before the SC.

Observations of the Supreme Court

Validity of the Revocation Deed

The SC primarily observed that the plaintiff had in fact **acted upon the said Gift Deed** by applying for mutation of the suit property immediately after the execution of the same, and had also sought possession of the suit property by issuing a memo upon the defendant.

It was further observed that the defendant had not reserved its right of revocation in the said Gift Deed. Merely mentioning that the plaintiff was to use the suit property for manufacturing Khadi Lungi and Khadi Yarn, etc., would not tantamount to reserving the donor's right to revocation.

In this context, the observations of the HC were upheld and the **purported revocation deed was declared as *void ab initio***.

Applicable Limitation Period – Article 58 vs Article 65

It was further sought to be contended that, as the suit was filed seeking declaration of title, the limitation period for filing the same would be as per **Article 58 of the Act** that prescribes a period of 3 years from the date when the right to sue first accrues. The defendant, thus, sought to contend that the suit would have to be filed within three years from the date of the purported revocation deed.

However, the SC rejected this contention and provided **two reasons** for the same:

1. **Revocation deed held void:** As noted earlier, the purported revocation deed was found to be *void ab initio*. Therefore, no suggestion could be accepted that the rights of the plaintiff were taken away by the act of the defendant.
2. **Recovery of possession also sought:** The present suit had been filed by the plaintiff seeking declaration of its title over the suit property *along with* the relief of recovery of possession from the defendant. The SC noted that the period of limitation in such a scenario would not be as per Article 58 of the Act but would rather be prescribed as per **Article 65 of the Act**.

Pertinently, **Article 65 of the Act** prescribes that the suit must be filed within a period of 12 years from the date the possession of the defendant becomes adverse. Thus, the SC held that the limitation period in suits when relief of possession is sought along with declaration of title would be as per the former.

In fact, relying on a prior decision[2], it was laid down that in a suit for declaration with a further relief, the **limitation would be governed by the Article governing the suit for such further relief**.

Key Takeaway

In the opinion of the authors, the present decision is extremely relevant and helpful in **clarifying the legal position on limitation periods** pertaining to suits for declaration with further relief. The decision of the SC will be a relevant precedent in future suits that are concerned with this particular aspect of limitation.

This decision highlights an important takeaway for claimants in property disputes, that the **nature and structure of the relief sought** can greatly influence the applicable limitation period.

Endnotes

[1] N. Thajudeen v. T.N. Khadi & Village Industries Board [2024 SCC OnLine SC 3037]. The coram comprised of Pankaj Mithal and Ujjal Bhuyan, JJ. The decision was authored by Pankaj Mithal, J.

[2] C. Mohammad Yunus v. Syed Unnissa [AIR 1961 SC 808].

Frequently Asked Questions

What is the limitation period for a suit for declaration of title along with recovery of possession?

The Supreme Court held that the **limitation period is 12 years**, governed by Article 65 of the Limitation Act, 1963, and not the 3-year period, counted from the date the defendant's possession becomes adverse to the plaintiff.

Is the limitation period 3 years or 12 years for such a suit?

It is **12 years, not 3**. Where a declaration of title is sought together with recovery of possession, Article 65 (12 years) applies rather than the shorter residuary period.

From when does the 12-year limitation period start running?

The 12-year period runs from the **date on which the defendant's possession becomes adverse** to the plaintiff, in terms of Article 65 of the Schedule to the Limitation Act.

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