
**LIMITATION PERIOD FOR SUBSEQUENT FILING OF SUIT AFTER
REJECTION OF PLAINT**

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**CASE: INDIAN EVANGELICAL LUTHERAN CHURCH TRUST
ASSOCIATION VERSUS SRI BALA & CO. (2025) SC**

➤ **BRIEF FACTS OF THE CASE**

The plaintiff and defendant were alleged to have entered into an agreement to sell a property in 1991. In 1993, the plaintiff filed a suit for specific performance against the defendant, but the suit was rejected due to the plaintiff's failure to pay the required court fees.

In 2007, the plaintiff filed another suit for specific performance, again based on the same agreement. The appellant/defendant challenged the maintainability of the second suit, citing it as barred by the law of limitation.

➤ **CONTENTION OF THE DEFENDANT/APPELLANT**

The appellant contended that the second suit, filed in 2007, was time-barred was barred by the law of limitation since it was filed after a gross delay of almost nine years and hence it should be rejected under **Order VII Rule 11(d) of the CPC**.

It was further submitted that the subsequent suit is also barred by the principle of **res judicata** as the plaintiff had not filed any appeal against the rejection of the plaint in the previous suit.

➤ **CONTENTION OF THE PLAINTIFF/RESPONDENT**

The plaintiff contended that the rejection of the plaint in 1998 under Order VII Rule 11(d) did not bar the right to file a fresh suit on the same cause of action as per **Order VII Rule 13** of the CPC. Further, the plaintiff attempted to rely on an extension letter purportedly issued in 1991 to justify the delayed filing.

Regarding the defendant's reliance on *res judicata*, the plaintiff argued that the rejection of a plaint under Order VII Rule 11(d) of the CPC was procedural and did not constitute a decision on the merits of the case. Therefore, *res judicata* was not applicable.

➤ **PROCEEDINGS BEFORE THE TRIAL COURT & THE HIGH COURT**

The trial court dismissed the defendant's application for rejection, stating that the earlier suit was not decided on merits, hence *res judicata* did not apply, and the issue of limitation required evidence.

The High Court upheld this decision in 2022, reiterating that these issues were questions of fact and law requiring trial. The High Court's order was subsequently challenged before the Supreme Court.

➤ **LEGAL ISSUES INVOLVED**

The primary legal issue involved was whether the plaint filed by the plaintiff in the subsequent suit for specific performance is liable to be rejected under Order VII Rule 11(d) of the Code of Civil Procedure, 1908, on the ground that the suit is barred by the law of limitation?

➤ **OBSERVATIONS OF THE SUPREME COURT**

1. Limitation for Subsequent Suit

The Supreme Court emphasized that once a plaint is rejected under Order VII Rule 11(d) CPC, the plaintiff retains the right to file a fresh suit on the same cause of action under Order VII Rule 13 of the CPC. However, the fresh suit is governed by the **residuary provision of Article 113 of the Limitation Act**, which provides a three-year limitation period from the date the right to sue accrues.

In this case, the rejection of the plaint in 1998 gave the plaintiff a new right to file a subsequent suit. Thus, the limitation period under Article 113 commenced in 1998, and the second suit should have been filed by 2001. The filing in 2007 was, therefore, barred by limitation.

2. Rejection of Plaint Under Order VII Rule 11(d) CPC

The Court referred to the provision and emphasized the grounds for rejection of a plaint, particularly under Rule 11(d), where a suit is barred by any law, including limitation.

Precedents Cited

The Court highlighted principles established in previous judgments:

1. **T. Arivandandam v. T.V. Satyapal (1977) SC**: The trial court must reject a plaint if it is manifestly vexatious or meritless upon a meaningful reading.
2. **Sopan Sukhdeo Sable v. Assistant Charity Commissioner (2004) SC**: The object of Order VII Rule 11 CPC is to ensure that frivolous suits are dismissed at the outset.
3. **Popat and Kotecha Property v. SBI Staff Association (2005) SC**: The entire plaint must be considered holistically, not in parts, to determine maintainability.
4. **Saleem Bhai v. State of Maharashtra (2003) SC**: Only the averments in the plaint are relevant for deciding an application under Order VII Rule 11(d) CPC.
5. **Biswanath Banik vs. Sulanga Bose (2022) SC**: Whether the suit can be said to be barred by limitation or not, and observed that at this stage, what is required to be considered is the averments in the plaint. Only in a case where on the face of it, it is seen that the suit is barred by limitation, then and then only a plaint can be rejected under Order VII Rule 11(d) of CPC.

The Supreme Court reiterated that while limitation is generally a mixed question of law and fact requiring trial, in clear-cut cases like this one, the plaint can be rejected outright under Order VII Rule 11(d) CPC if the facts on record demonstrate that the suit is time-barred.

3. **Extension Letter Argument**

The Court rejected the plaintiff's argument regarding the extension letter, noting that the letter was neither pleaded in the first suit nor raised until the second suit. The Court emphasized that issues of limitation must be assessed

based on the pleadings in the plaint, and new arguments introduced later cannot alter the limitation analysis.

4. On Principle of Res Judicata

The Court addressed the contention regarding res judicata and clarified that the rejection of a plaint under Order VII Rule 11(d) CPC does not constitute an adjudication on the merits of the case. The Court emphasized that res judicata, as per **Section 11 of the CPC**, applies only when there has been a final decision on the merits by a competent court.

Since the rejection of the plaint is procedural and does not involve an assessment of the rights or liabilities of the parties, it cannot operate as a bar to filing a fresh suit on the same cause of action. The Court referred to **Order VII Rule 13 of the CPC**, which explicitly allows the plaintiff to file a fresh suit after the rejection of a plaint, provided it is within the limitation period.

5. Application of Section 9 of the Limitation Act

The Court clarified that **Section 9 of the Limitation Act** is based on the general principle that when once limitation has started to run, it will continue to do so unless it is arrested by reason of any express statutory provision. Period of limitation can be extended when cause of action was cancelled such as by dismissal of a suit. But once the plaint is rejected, the subsequent suit must adhere to the limitation period prescribed under Article 113 of the Limitation Act.

Therefore, in the present case, filing of the first suit in 1993 did not pause or suspend the limitation period for filing a subsequent suit. The limitation period expired in 2001 itself and the second suit was filed belatedly in the year 2007. The cause of action by then faded into oblivion. The right to sue stood

extinguished. The suit was barred in law as being filed beyond the prescribed period of limitation as per Article 113 to the Schedule to the Limitation Act.

➤ **FINAL DECISION OF THE COURT**

The Supreme Court held that the second suit filed in 2007 was barred by limitation under Article 113 of the Limitation Act, 1963. The limitation period of three years commenced in 1998 (on the date of rejection of the first plaint) and expired in 2001. The filing of the suit in 2007 was, therefore, grossly delayed and unsustainable in law. Consequently, the plaint was rejected under Order VII Rule 11(d) of the CPC.