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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of Decision: 19.08.2025***

\+ **C.R.P. 169/2025 & CM APPL. 33821/2025**

BHUVAN CHANDRA BHATT .....Petitioner

Through: Mr. Harish Katyal, Advocate.

versus

VEENU KAKKAR .....Respondent

Through: Mr. Sumit Sama, Advocate.

**CORAM:**
**HON'BLE MS. JUSTICE TARA VITASTA GANJU**

**TARA VITASTA GANJU, J.: (Oral)**

1. The present Petition has been filed under Section 115 of the Code of Civil Procedure, 1908 [hereinafter referred to as "CPC"] seeking to challenge the order dated 05.04.2025 passed by the learned District Judge-02 (South-East), Saket Courts, New Delhi [hereinafter referred to as "Impugned Order"]. By the Impugned Order, the Application under Order VII Rule 11 of the CPC filed by the Petitioner/Defendant has been dismissed.

2. The Petitioner/Defendant had on 28.05.2025 restricted his contention in the present Petition to a challenge on the aspect of limitation**.** It is the case of the Petitioner/Defendant that the suit for recovery was filed on 08.01.2024 in respect of the loan that was taken on 12.02.2019. It is further contended that the part repayment of the loan was done in August, 2022 and October, 2022.

3. Learned Counsel for the Petitioner/Defendant submits that in terms of

Article 19 of Limitation Act, 1963 [hereinafter referred to as the "Act"], when money is payable, the limitation expires 3 years from when the loan is made. In addition, it is contended that the part payment would not extend limitation under Article 19 of the Act since the part payment was made after the expiry of limitation. Thus, it is contended that the suit as filed is barred by limitation.

4. Learned Counsel for the Respondent, on the other hand, reiterates what has been stated in the Impugned Order that the period of limitation in terms of the Judgment in suo moto W.P.(C) 3/2020, ***In Re: Cognizance for Extension of Limitation***[1] passed by the Supreme Court would stand extended in the present case to September, 2022 and thus, the suit is within limitation.

5. Undisputably, the loan was taken in February, 2019. The Plaint, in fact, sets out that the cause of action in filing the suit first arose in January, 2019. It is the case of the Respondent/Plaintiff that the Respondent/Plaintiff transferred a sum of Rs.12 lacs as loan to the Petitioner/Defendant in February, 2019, and thereafter Rs.2 lacs was returned by the Petitioner/Defendant, thus, a suit for recovery of the sum of Rs.10 lacs was filed on 04/08.01.2024. Paragraph 11 and 12 of the Plaint in this behalf are set out below:

> *"11. <u>That Cause of Action for filing the present suit arose firstly in the month of January 2019 when Shri Dheeraj Arora introduced Defendant with the Plaintiff and requested for personal loan to be given to Defendant, it again arose in the month of February 2019 when Plaintiff transferred Rs.12,00,000/- as loan to the Defendant, it again arose on all such dates when Plaintiff requested the return of money to the Defendant and Defendant delayed or ignored the payment, it again arose when Defendant gave cheque of Rs.12,00,000/- in the name of Plaintiff and further Defendant transferred Rs.2,00,000/- in parts to the Plaintiff and the cause of action is still continuing as Defendant has still not paid the balance</u>*

[1] (2022) 3 SCC 117

***amount to the Plaintiff.***

*12. That **the payment was made to the Defendant from East of Kailash branch of AXIS BANK of Plaintiff** therefore this Hon'ble Court has territorial jurisdiction to entertain the present Suit."*

[Emphasis supplied]

6. Article 19 of the of the Schedule to the Act provides that the limitation to institute proceedings in the case of a loan made or money lent would arise 3 years from the date when the loan is made, in the following terms:

| ***Article No.*** | ***Description of Suit*** | ***Period of limitation*** | ***Time from which period begins with*** |
|---|---|---|---|
| *19.* | *For money payable for money lent.* | *Three years* | *When the loan is made.* |

7. Section 19 of the Act also has the effect of extension of time to file proceedings where a person is liable to pay a debt. It states that a fresh period of limitation shall be computed from the time when a payment is made as part of such debt. However, the provision specifically sets out that the payment/repayment must be made prior to the period of limitation expiring in order for the provision to be applicable and that a fresh period of limitation would only be commuted from the time when the payment was made. Section 19 of the Act is set out below:

***"Section 19***

***19. Effect of payment on account of debt or of interest on legacy** — **Where payment on account of a debt or of interest on a legacy is made before the expiration of the prescribed period*** *by the person liable to pay the debt or legacy or by his agent duly authorised in this behalf,* ***a fresh period of limitation shall be computed from the time when the payment was made:***

*Provided that, save in the case of payment of interest made before the 1st day of January, 1928, an acknowledgment of the payment appears in the* *handwriting of, or in a writing signed by, the person making the payment.*

*Explanation — For the purposes of this section —*

*(a) where mortgaged land is in the possession of the mortgagee, the receipt of the rent or produce of such land shall be deemed to be a payment;*

*(b) "debt" does not include money payable under a decree or order of a court."*

[Emphasis Supplied]

8. As stated above, the loan was given by the Respondent/Plaintiff in February, 2019. The part repayment of the loan was made by the Petitioner/Defendant by making payment of a sum of Rs.1,00,000/- on 03.08.2022 and Rs. 1,00,000/- on 31.10.2022. The limitation, in the first instance, for a loan taken in February, 2019 would have expired in February, 2021. However, the part repayment of Rs.2,00,000/- was made by the Petitioner/defendant on 03.08.2022 and 31.10.2022, after the expiry of the prescribed limitation period. Thus, in terms of Section 19 of the Act, such repayment could not extend or revive the period of limitation. A plain reading of Section 19 of the Act shows that the provision is only applicable where the payment/repayment is made before the expiration of the prescribed period of limitation. Thus, part repayment must necessarily be made within the subsistence of the limitation period.

9. In addition, it is the contention of the Respondent that the suit is not saved by virtue of the judgment of the Supreme Court in the *In Re: Cognizance for Extension of Limitation* case is also misconceived.

9.1 The Supreme Court in the ***In Re: Cognizance for Extension of Limitation*** case has held that the period from 15.03.2020 to 28.02.2022 shall stand excluded for the purposes of limitation. It has been further held that in cases where the limitation would have expired during the period between

15.03.2020 till 28.02.2022, all persons shall have a limitation period of 90 days from 01.03.2022 and in the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply. The Supreme Court further clarified that the period from 15.03.2020 till 28.02.2020 shall stand excluded in computing the period under any statute which prescribe a limitation for institution of proceedings and termination of proceedings. The relevant extract **of *In Re: Cognizance* case** is set out below:

> *"5.1. The order dated 23-3-2020 is restored and in continuation of the subsequent orders dated 8-3-2021, 27-4-2021 and 23-9-2021,* ***it is directed that the period from 15-3-2020 till 28-2-2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.***
>
> *5.2. Consequently, the balance period of limitation remaining as on 3-10-2021, if any, shall become available with effect from 1-3-2022.*
>
> *5.3.* ***In cases where the limitation would have expired during the period between 15-3-2020 till 28-2-2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 1-3-2022. In the event the actual balance period of limitation remaining, with effect from 1-3-2022 is greater than 90 days, that longer period shall apply.****"*
>
> [Emphasis Supplied]

9.2 Applying the judgment of the Supreme Court in the ***In Re: Cognizance for Extension of Limitation*** case would extend the limitation for the Respondent/Plaintiff up to 30.05.2022 i.e., 90 days after 01.03.2022. However, concededly, the suit for recovery has been filed on 08.01.2024.

10. It is the case of the Respondent/Plaintiff that part payment of loans to the tune of Rs. 2,00,000 has been made by the Petitioner/Respondent on 03.08.2022 and 31.10.2022 and therefore, the cause of action is still continuing as the Petitioner/Defendant has still not paid the balance amount

to the Plaintiff. Reliance in this regard has been placed by the Respondent/Plaintiff upon statement of account of their bank for the duration of 01.08.2022 to 31.10.2022 submitted along with plaint.

10.1 The bank statement would not however come to the aid of the Respondent either. It is not disputed by the Petitioner that part repayments were made. The contention that is being raised is however that these part repayments although made were made after the expiry of limitation and thus no fresh period of limitation as is envisaged under Section 19 of the Act would apply.

11. In the present case, the suit filed is a simpliciter suit for recovery of money which was advanced as a friendly loan. The loan was advanced by the Respondent/Plaintiff to the Petitioner/Respondent on 12.02.2019 and the suit for recovery was filed on 08.01.2024.

12. Limitation is usually a mixed question of law and fact. The Supreme Court has in the case of ***Shri Mukund Bhavan Trust & Ors. v. Shrimant Chhatrapati Udayan Raje Pratapsinh Maharaj Bhonsle & Anr.***[2] held that limitation is a mixed question of fact and law and in cases where it is glaring from the averments of the plaint that the suit is hopelessly barred by limitation, the Courts should not be hesitant in granting the relief in an Application under Order VII Rule 11, CPC since forcing the defendants to undergo the ordeal of leading evidence would cause more harm to the defendants. The relevant extract of ***Shri Mukund Bhavan Trust*** case is below:

> " ***26.*** ***At this juncture, we wish to observe that we are not unmindful of the position of law that limitation is a mixed question of fact and law and the***

[2] 2024 SCC OnLine SC 3844

***<u>question of rejecting the plaint on that score has to be decided after weighing the evidence on record. However, in cases like this, where it is glaring from the plaint averments that the suit is hopelessly barred by limitation, the Courts should not be hesitant in granting the relief and drive the parties back to the trial Court.</u>*** *We again place it on record that this is not a case where any forgery or fabrication is committed which had recently come to the knowledge of the plaintiff. Rather, the plaintiff and his predecessors did not take any steps to assert their title and rights in time. The alleged cause of action is also found to be creation of fiction. However, the trial Court erroneously dismissed the application filed by the appellants under Order VII Rule 11(d) of CPC. The High Court also erred in affirming the same, keeping the question of limitation open to be considered by the trial Court after considering the evidence along with other issues, without deciding the core issue on the basis of the averments made by the Respondent No. 1 in the Plaint as mandated by Order VII Rule 11(d) of CPC.* ***<u>The spirit and intention of Order VII Rule 11(d) of CPC is only for the Courts to nip at its bud when any litigation ex facie appears to be a clear abuse of process. The Courts by being reluctant only cause more harm to the defendants by forcing them to undergo the ordeal of leading evidence. Therefore, we hold that the plaint is liable to be rejected at the threshold</u>****.”*

[Emphasis Supplied]

12.1 However, limitation being a mixed question of facts and law would be required to be adjudicated only when such facts are pleaded in the plaint which would entail such an enquiry. However, no such facts have been pleaded by the Respondent.

13. The learned Trial Court has however wrongly given a finding that the period from 15.03.2020 to 28.02.2022 shall be excluded from the period of limitation and has held that the period of limitation started running from 12.02.2019 and after excluding the period from 15.03.2020 to 28.02.2022, the limitation to file the suit would have expired on 28.01.2024 and the suit filed on 08.01.2024 was within limitation. The finding in this behalf is reproduced in Paragraph 8 of the Impugned Order which is set out below:

*"8.* ***<u>Thus, as per the aforesaid order of Hon'ble Supreme Court, the period from 15.03.2020 till 28.02.2022 has stood excluded for the purposes of limitation</u>****. Even in* ***<u>M/s Arif Azim Co. Ltd. Vs. M/s. Aptech Ltd., AIR 2024 SC 347,</u>*** *the Hon'ble Supreme Court has held that the effect of aforesaid order*

> *dated 10.01.2022 of Hon'ble Supreme Court is that the balance limitation left on 15.03.2020 would become available w.e.f. 01.03.2022.* ***In the present case, the period of limitation started running from 12.02.2019 and if the period from 15.03.2020 to 28.02.2022 is excluded while computing the limitation period, then the limitation to file the present case would have expired on 28.01.2024, whereas the present suit was filed on 08.01.2024, which means that the suit is filed well within the period of limitation****.*
>
> [Emphasis Supplied]

14. Concededly, in terms of the judgment of the Supreme Court in the ***In Re: Cognizance for Extension of Limitation*** case, the period of limitation would end on 11.02.2022 and since this fell in the period between 15.03.2020 and 28.02.2022, the Respondent/Plaintiff got a period of 90 days from the expiry of 01.03.2022 within which to file his suit. The suit however was filed on 08.01.2024. The part payments made on 03.08.2022 and 31.10.2022 also do not help the Petitioner in extending limitation as has been discussed hereinabove, since these payments were not made prior to the expiry of the prescribed period of limitation.

15. In view of the aforegoing, the Impugned Order cannot be sustained and is accordingly set aside.

16. The Petition is disposed of in the aforegoing terms. Pending Application stands closed.

17. The parties shall appear before the learned Trial Court for further proceedings on the date already fixed, i.e., 16.09.2025.

18. The parties shall act based on a digitally signed copy of the order.

**TARA VITASTA GANJU, J**

**AUGUST 19, 2025/pa/ha**