



2025:DHC:9652-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment reserved on: 14.10.2025
Judgment pronounced on: 04.11.2025

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RFA(COMM) 389/2024 and CM APPL.21125/2025**ROOPINDER SINGH****.....Appellant****Through: Ms. Pallavi Singh,**
Advocate.**versus****EMAAR MGF LTD. & ORS****...Respondents****Through: Mr. Arjun Jain, Ms.**
Anushree Narain, Mr.
Naman Choula and Mr.
Yamit Jetley, Advocates.**CORAM:****HON'BLE MR. JUSTICE ANIL KSHETARPAL****HON'BLE MR. JUSTICE HARISH VAIDYANATHAN**
SHANKAR**J U D G M E N T****HARISH VAIDYANATHAN SHANKAR, J.**

1. The present appeal, filed under Section 96 read with Order XLI of the **Code of Civil Procedure, 1908**¹ and Section 13 of the **Commercial Act, 2015**², impugns the **Judgment dated 18.05.2024**³ passed by the learned **District Judge, Commercial Court-06, South-East District, Saket Courts, New Delhi**⁴, in CS (COMM) No. 194/2021 titled '*Roopinder Singh vs. Emaar MGF Ltd. and Ors*'.

2. By the Impugned Judgment, the learned Commercial Court

¹ CPC

² CC Act

³ Impugned Judgement

⁴ Commercial Court

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dismissed the Appellant's application filed under Section 14 of the **Limitation Act, 1963**⁵, seeking exclusion of the period spent in *bona fide* prosecution of the matter before the courts lacking jurisdiction. Consequently, the learned Court rejected the plaint under Order VII Rule 11(d) of the CPC, holding the same to be barred by limitation.

BRIEF FACTS:

3. The Appellant had booked a commercial unit in the project titled "*The Palm Square*", situated at Gurgaon, Haryana, being developed by the Respondents, in the year 2007, upon payment of a booking amount of Rs. 15,50,000/- through a cheque dated 25.10.2007.

4. Subsequently, by a letter dated 05.02.2008, the Appellant requested cancellation of the said booking, citing personal reasons.

5. The Appellant was issued a receipt dated 29.02.2008 and an acknowledgement letter dated 24.03.2008 by the Respondents. Further, by letter dated 10.03.2008, the Respondents issued an allotment letter in favour of the Appellant for Unit No. 1008 on the 10th floor of the said project.

6. Despite repeated requests made by the Appellant, the Respondents failed to refund the booking amount. By email dated 28.01.2009, the Respondents expressly refused to process the refund, stating that entertaining such requests would adversely affect the completion of the project.

7. Thereafter, a legal notice dated 22.07.2009 was issued by the Appellant to the Respondents, calling upon them to refund the booking amount. The Respondents replied to the same on 05.10.2009.

⁵ Limitation Act



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8. In December 2009, the Appellant filed a Complaint Case No. 1515/2008 before the learned **District Consumer Disputes Redressal Forum, Chandigarh**⁶, which was allowed *vide* order dated 06.10.2010, directing the Respondents to refund the deposited amount along with interest and litigation costs.

9. In July 2011, the Respondents challenged the said order before the **State Consumer Disputes Redressal Commission, Chandigarh**⁷. *Vide* order dated 11.07.2011, the learned SCDRC allowed the appeal and set aside the order of the learned District Consumer Forum, holding that the Appellant was not a “consumer” within the meaning of the **Consumer Protection Act, 1986**⁸.

10. Aggrieved by the order of the learned SCDRC, the Appellant preferred a Revision Petition before the **National Consumer Disputes Redressal Commission, Circuit Bench at UT Chandigarh**⁹. *Vide* order dated 28.11.2014, after hearing the matter for some time, the Appellant was permitted to withdraw the petition with liberty to pursue appropriate remedies before a competent forum.

11. Pursuant to the said liberty, in February 2015, the Appellant instituted Civil Suit No. 279/2015 before the **Court of the learned Civil Judge (Junior Division), Chandigarh**¹⁰, seeking recovery of Rs. 15,50,000/- along with interest. However, the said plaint was returned *vide* order dated 24.09.2019 for want of territorial jurisdiction.

12. Thereafter, in November 2019, the Appellant initiated pre-institution mediation proceedings under the CC Act before the District

⁶ District Consumer Forum

⁷ SCDRC

⁸ CP Act

⁹ NCDRC

¹⁰ District Court at Chandigarh



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Legal Services Authority, Saket Courts, New Delhi. However, the proceedings failed as the parties did not appear for mediation.

13. In March 2021, the Appellant instituted CS (COMM) No. 194/2021 before the learned Commercial Court, Saket, Delhi, seeking recovery of the booking amount along with interest.

14. Upon the Respondents raising an objection regarding the limitation, the Appellant filed an application under Section 14 of the Limitation Act, seeking exclusion of the period spent in *bona fide* prosecution of the matter before courts lacking jurisdiction.

15. After considering the response filed by the Respondents and hearing both sides, the learned Commercial Court, by the Impugned Judgment, dismissed the Appellant's application under Section 14, holding that the Appellant had not prosecuted the earlier proceedings with due diligence and good faith as required under Section 14 of the Limitation Act, and therefore, the Court rejected the plaint as barred by limitation under Order VII Rule 11(d) of the CPC.

16. Aggrieved by the Impugned Judgment, the Appellant has preferred the present appeal before us.

SUBMISSIONS OF THE APPELLANT:

17. Learned Counsel for the Appellant would submit that the learned Commercial Court has erred in dismissing the Appellant's application under Section 14 of the Limitation Act, as the Appellant had continuously and diligently pursued the remedies available in law, first before the Consumer Forums and thereafter before the learned District Court at Chandigarh, and all such proceedings were initiated within the prescribed period of limitation.

18. Learned Counsel for the Appellant would further submit that

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the learned Commercial Court has erred in holding that the petition filed by the Appellant before the learned SCDRC was not pursued with due diligence and in good faith. It would be further submitted that it was the Respondents who had challenged the order passed in favour of the Appellant by the learned District Consumer Forum, and the Appellant, being aggrieved by the reversal of that order, had exercised his legal remedy on *bona fide* legal advice and in continuation of earlier proceedings, and therefore, the period spent therein ought to have been excluded under Section 14 of the Limitation Act.

19. It would further be submitted by the learned Counsel for the Appellant that the institution of the civil suit before the learned District Court at Chandigarh was based on a reasonable and *bona fide* belief, founded on legal advice, that part of the cause of action had arisen at Chandigarh, and since both the booking application and the payment of Rs. 15,50,000/- were effected there, a plausible territorial nexus under Section 20(c) of the CPC existed, and hence, the Appellant cannot be faulted for having pursued the said remedy.

20. Learned Counsel for the Appellant would also contend that the learned Commercial Court failed to appreciate the settled position of law with respect to Section 14 of the Limitation Act, as it overlooked the Appellant's *bona fide* and diligent pursuit of earlier proceedings, and thereby erroneously rejected the claim of the Appellant.

SUBMISSIONS OF THE RESPONDENTS:

21. *Per contra*, learned Counsel for the Respondents would contend that the Appellant's suit is hopelessly barred by limitation, having been filed well beyond the prescribed three-year period from the



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accrual of cause of action in January 2009, and would argue that Section 14 of the Limitation Act, has no application to the present case, as the said provision contemplates exclusion of time only for proceedings instituted before a civil court lacking jurisdiction, whereas the consumer fora before which the Appellant had pursued his earlier remedies do not fall within that definition, and hence, the Appellant would not be entitled to claim exclusion of the time spent before such fora.

22. It would further be submitted by the learned Counsel for the Respondents that the Appellant cannot be said to have acted either with due diligence or in good faith, as the issue of maintainability under the CP Act, had been raised from the very inception, yet the Appellant continued to prosecute the proceedings before the learned District Consumer Forum, the learned SCDRC, and thereafter before the learned NCDRC, and the revision petition was ultimately withdrawn after more than three years.

23. Learned Counsel for the Respondents would further submit that despite a specific objection to territorial jurisdiction being taken before the learned District Court at Chandigarh, the Appellant persisted with the suit until the plaint was returned, and such conduct, it would be urged, clearly indicates absence of *bona fides* and due diligence in prosecuting the earlier proceedings, thereby disentitling the Appellant from claiming exclusion of time under Section 14 of the Limitation Act.

24. Learned Counsel for the Respondents would, in support of their contentions, place reliance upon the decisions in *Madhavrao*



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*Narayanrao Patwardhan v. Ram Krishna Govind Bhanu*¹¹, *U.P. Jal Vidyut Nigam Ltd. v. C.G. Power & Industrial Solution Ltd.*¹², and *K.G. Khosla & Co. v. Trustees of The Port of Bombay*¹³, and would contend that the benefit of Section 14 of the Limitation Act cannot be extended to proceedings not prosecuted before a court of competent civil jurisdiction, nor to those pursued without due diligence and good faith.

25. Learned Counsel for the Respondents would also contend that such conduct on the part of the Appellant would clearly evidence a lack of *bona fides* and diligence, and would therefore submit that the learned Commercial Court has rightly held that the Appellant failed to establish good faith and due diligence as contemplated under Section 14 of the Limitation Act, and that the Impugned Judgment is well-reasoned and warrants no interference.

ANALYSIS:

26. We have heard learned counsel for the parties and, with their able assistance, carefully perused the Impugned Judgment, the documents, and the pleadings on record.

27. At the outset, we deem it appropriate to reproduce the analysis and findings of the learned Commercial Court in the Impugned Judgment. The relevant extract of the Impugned Judgment is set out below:

“16. I have considered the arguments of Ld. Counsel for the parties and I have perused the record. Section 14 of the Limitation Act 1963 empowers the court to exclude the time for which the plaintiff might be proceeding bonafidely in a court without jurisdiction. To take the benefit of this provision, the plaintiff has

¹¹ 1958 SCC OnLine SC 152

¹² 2023 SCC OnLine Del 7916

¹³ 1970 SCC OnLine Del 63



to show that he has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of a appeal or revision, against the defendant. The plaintiff also needs to show that he was prosecuting the matter before the wrong forum in good faith.

17. The order of the District Consumer Forum was in favour of the plaintiff. Therefore, it may be accepted that he was under the wrong impression that he was covered under the definition of "Consumer". However, the filing of revision against the order dated 11.07.2011 of SCDRC cannot be said to be an action taken with due diligence and in good faith. Despite knowing that he was not a consumer under the Consumer Protection Act, he filed the revision before NCDRC. Ld. Counsel for the plaintiff submitted that the revision was filed on 07.10.2011 and it was withdrawn on 28.11.2014. This shows that the revision remained pending before NCDRC for more than three years.

18. Ld. Counsel for the plaintiff submitted that the civil suit at Chandigarh was filed on 11.02.2015. The defendant took the objection regarding the territorial jurisdiction. The defendant did not concede and ultimately the issue was decided against him vide judgment dated 24.09.2019. The proceedings remained pending before the Chandigarh Court for more than four years.

19. In paragraph 28 of the judgment by Hon'ble Delhi High Court in **Ashwani Sharma Vs. Kanta Sharma & Ors 2017 SCC OnLine Del 6623** it was held thus:-

"28. it has been held in Ravindra Nath Samuel Dawson Vs. Sivakasi (1973) 3 SCC 381, that continuing to prosecute the suit in a court unable to entertain it from defect of jurisdiction inspite of objection by the defendant negates good faith. Recently in M.P. Steel Corpn. Vs. Commissioner of Central Excise (2015) 7 SCC 58, it has been held that the party who invokes Section 14 should not be guilty of negligence, lapse or inaction and there should be no pretended mistake intentionally made with the view to delaying the proceeding or harassing the opposite party."

20. Section 2 (h) of the Limitation Act 1963 provides that nothing shall be deemed to be done in good faith which is not done with due care and attention.

21. In **Messrs K.G. Khosla & Co. Vs. The Trustees of Port of Bombay 92 DLT 1972**, Hon'ble Delhi High Court held thus: -

"13. The appellant took the objection to the local jurisdiction of the Bombay Civil Court immediately after the suit was filed at Bombay. The respondent refused to concede the validity of the objection and went on



perversely litigating in Bombay Court. This was utter negligence on part of the respondent. It cannot be said therefore, that the prosecution of the suit at Bombay by the respondents was made with 'due diligence'."

22. Filing of the revision by the plaintiff against the order of SCDRC cannot be said to be a decision taken with due diligence and in good faith. Therefore, the period from 07.10.2011 to 28.11.2014 for which the revision filed by the plaintiff remained pending before NCDRC, cannot be condoned under Section 14 of the Limitation Act.

23. The defendant promptly took the objection before the court of Civil Judge, Chandigarh regarding the territorial jurisdiction. Despite the objection taken by the defendant, the plaintiff pursued the matter for more than four years. This is also not an act of due diligence and good faith. Therefore, this period can also not be condoned under Section 14 of the Limitation Act.

24. If the periods mentioned above are not condoned, the suit is clearly barred by limitation. The application of the plaintiff under Section 14 of the Limitation Act is dismissed and the plaint is rejected under Order VII Rule 11 (d) CPC being barred by limitation. Parties to bear their own cost. File be consigned to Record Room."

28. In the present Appeal, the limited issue that arises for consideration is the applicability of Section 14 of the Limitation Act, to the facts and circumstances of this case. Section 14 reads as under:

"14. Exclusion of time of proceeding bona fide in court without jurisdiction.—(1) In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the defendant shall be excluded, where the proceeding relates to the same matter in issue and is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(2) In computing the period of limitation for any application, the time during which the applicant has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the same party for the same relief shall be excluded, where such proceeding is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(3) Notwithstanding anything contained in rule 2 of Order XXIII of the Code of Civil Procedure, 1908 (5 of 1908), the provisions of sub-section (1) shall apply in relation to a fresh suit instituted on



permission granted by the court under rule 1 of that Order, where such permission is granted on the ground that the first suit must fail by reason of a defect in the jurisdiction of the court or other cause of a like nature.

Explanation.- For the purposes of this section, -

(a) in excluding the time during which a former civil proceeding was pending, the day on which that proceeding was instituted and the day on which it ended shall both be counted;

(b) a plaintiff or an applicant resisting an appeal shall be deemed to be prosecuting a proceeding;

(c) misjoinder of parties or of causes of action shall be deemed to be a cause of a like nature with defect of jurisdiction.”

(emphasis supplied)

29. Section 14 of the Limitation Act seeks to protect a litigant who, in good faith, has pursued a remedy before a court that ultimately lacks jurisdiction or competence to decide the matter. In essence, it ensures that the time spent bona fide litigating before an incompetent forum is excluded while calculating the period of limitation for filing the same claim before a competent forum. This protection extends not only to suits but also to applications filed before courts of first instance, appellate, or revisional jurisdiction.

30. However, to invoke the benefit of this section, *inter alia*, two essential conditions must be satisfied, *namely*, the litigant must have acted with *due diligence*, meaning that all reasonable steps were taken without unnecessary delay; and the proceeding must have been pursued *in good faith*.

31. The Explanation to Section 14 further clarifies that both the day on which the earlier proceeding was instituted and the day it concluded shall be included while computing the exclusion period. It also provides that a party resisting an appeal shall be deemed to be prosecuting a proceeding and that even misjoinder of parties or causes



of action constitutes a defect of a like nature.

32. To claim the benefit of this provision, the litigant must establish good faith as defined under Section 2(h) of the Limitation Act, which states as follows:

“(h) “good faith” - nothing shall be deemed to be done in good faith which is not done with due care and attention”

33. On a plain reading, it is evident that the essence of *good faith* lies not in the outcome of the proceedings but in the honesty and reasonableness with which the litigant pursued them. Therefore, as long as a party’s choice of forum was guided by a *bona fide* belief, exercised with due care and without negligence, the protection under Section 14 of the Limitation Act would apply.

34. The true intent and scope of Section 14 have been clearly elucidated by the Hon’ble Supreme Court in ***Consolidated Engg. Enterprises v. Irrigation Deptt.***¹⁴, wherein it was observed that the legislative intent behind this provision is to safeguard litigants who, despite acting *bona fide* and diligently, are precluded from pursuing their remedies on the merits due to a jurisdictional or procedural defect. The relevant portion of the judgment reads as under:

“21. Section 14 of the Limitation Act deals with exclusion of time of proceeding bona fide in a court without jurisdiction. On analysis of the said section, it becomes evident that the following conditions must be satisfied before Section 14 can be pressed into service:

(1) Both the prior and subsequent proceedings are civil proceedings prosecuted by the same party;

(2) The prior proceeding had been prosecuted with due diligence and in good faith;

(3) The failure of the prior proceeding was due to defect of jurisdiction or other cause of like nature;

¹⁴ (2008) 7 SCC 169



(4) The earlier proceeding and the latter proceeding must relate to the same matter in issue and;

(5) Both the proceedings are in a court.

22. The policy of the section is to afford protection to a litigant against the bar of limitation when he institutes a proceeding which by reason of some technical defect cannot be decided on merits and is dismissed. While considering the provisions of Section 14 of the Limitation Act, proper approach will have to be adopted and the provisions will have to be interpreted so as to advance the cause of justice rather than abort the proceedings. It will be well to bear in mind that an element of mistake is inherent in the invocation of Section 14. In fact, the section is intended to provide relief against the bar of limitation in cases of mistaken remedy or selection of a wrong forum. On reading Section 14 of the Act it becomes clear that the legislature has enacted the said section to exempt a certain period covered by a bona fide litigious activity. Upon the words used in the section, it is not possible to sustain the interpretation that the principle underlying the said section, namely, that the bar of limitation should not affect a person honestly doing his best to get his case tried on merits but failing because the court is unable to give him such a trial, would not be applicable to an application filed under Section 34 of the Act of 1996. The principle is clearly applicable not only to a case in which a litigant brings his application in the court, that is, a court having no jurisdiction to entertain it but also where he brings the suit or the application in the wrong court in consequence of bona fide mistake or (sic of) law or defect of procedure. Having regard to the intention of the legislature this Court is of the firm opinion that the equity underlying Section 14 should be applied to its fullest extent and time taken diligently pursuing a remedy, in a wrong court, should be excluded.

31. To attract the provisions of Section 14 of the Limitation Act, five conditions enumerated in the earlier part of this judgment have to co-exist [Ed.: See para 21, above.] . There is no manner of doubt that the section deserves to be construed liberally. Due diligence and caution are essential prerequisites for attracting Section 14. Due diligence cannot be measured by any absolute standards. Due diligence is a measure of prudence or activity expected from and ordinarily exercised by a reasonable and prudent person under the particular circumstances. The time during which a court holds up a case while it is discovering that it ought to have been presented in another court, must be excluded, as the delay of the court cannot affect the due diligence of the party. Section 14 requires that the prior proceeding should have been prosecuted in good faith and with due diligence. The definition of good faith as found in Section



2(h) of the Limitation Act would indicate that nothing shall be deemed to be in good faith which is not done with due care and attention. It is true that Section 14 will not help a party who is guilty of negligence, lapse or inaction. However, there can be no hard-and-fast rule as to what amounts to good faith. It is a matter to be decided on the facts of each case. It will, in almost every case be more or less a question of degree. The mere filing of an application in wrong court would not prima facie show want of good faith. There must be no pretended mistake intentionally made with a view to delaying the proceedings or harassing the opposite party. In the light of these principles, the question will have to be considered whether the appellant had prosecuted the matter in other courts with due diligence and in good faith.”

(emphasis supplied)

35. Upon careful consideration of the above and the findings in the Impugned Judgment, it is evident that the learned Commercial Court concluded that the Appellant had not acted with due diligence or in good faith while pursuing the matter before the learned NCDRC. However, on examining the scope and intent of Section 14 of the Limitation Act, we are of the considered view that such a conclusion is unsustainable.

36. The said conclusion is premised on two counts:

- (a) The preferring of revision proceedings before the learned NCDRC against the order passed by the learned SCDRC; and
- (b) The filing of a suit before the learned District Court at Chandigarh, despite the Respondent's preliminary objection that the said Court lacked territorial jurisdiction to entertain the matter.

37. It is evident from the record that the initial decision of the learned District Consumer Forum was in favour of the Appellant. It was the Respondents who challenged that decision before the learned SCDRC, and upon reversal, the Appellant approached the learned NCDRC by availing the statutory remedy provided under the CP Act.



The learned NCDRC permitted withdrawal of the revision petition after hearing both sides and expressly granted liberty to seek relief before the appropriate forum. Had there been any *mala fides* on the Appellant's part, such liberty would not have been granted.

38. Section 14 of the Limitation Act explicitly allows exclusion of time spent in appellate or revisional proceedings. Therefore, the mere fact of the Appellant having availed the revisional remedy cannot lead to an inference of lack of *bona fides*. Moreover, none of the consumer fora recorded any findings of negligence or want of good faith against the Appellant. If the conclusion of the learned Commercial Court were to be accepted, it would mean that a litigant would have to simply accept the Judgment as rendered against him and forgo the statutory right to challenge the same, as it would not be a *bona fide* act on the part of the litigant. We also take note of the fact that, the Appellant herein had succeeded in the first round before the learned District Forum, meaning thereby that the Appellant had genuine cause to harbour a *bona fide* belief that the matter could be prosecuted before the Consumer Fora.

39. Similarly, when the Appellant filed the civil suit before the learned District Court at Chandigarh, he was pursuing a legitimate remedy in accordance with legal advice. It is an admitted fact that the Appellant herein is neither a lawyer nor a person with a legal background. The Appellant, having pursued an available statutory remedy, *albeit* on possibly erroneous advice as rendered to him, cannot lead to a conclusion that the proceedings lacked *bona fides*.

40. We also take note of the fact that the learned State Consumer Commission, which had rendered a judgment in favour of the Respondent herein, had categorically dismissed the objection that the



learned District Forum lacked territorial jurisdiction to entertain the original Complaint.

41. We are of the opinion that the learned Commercial Court failed to appreciate the continuity and consistency in the Appellant's pursuit of his remedies. The Appellant did not abandon or delay his claim at any stage. The sequence of proceedings clearly demonstrates a consistent and *bona fide* effort to seek redress through proper legal channels by the Appellant.

42. It is also not the Respondents' case that the Appellant derived any undue advantage or benefit by pursuing proceedings before the learned Consumer Forums or the learned District Court at Chandigarh. Nor is there any material to suggest that the Appellant's actions were absolutely vexatious or intended to harass the Respondents. It is also apparent that delay in adjudication would in fact, be more prejudicial to the interests of the Appellant.

43. *Au contraire*, we are of the firm belief that the Appellant genuinely and *bona fide* pursued various legal remedies before ultimately filing the foundational proceedings in which the Judgment impugned herein has been rendered.

44. In view of the foregoing, we are of the opinion that the Appellant's conduct, viewed holistically, reflects a continuous, *bona fide*, and diligent effort to pursue his claim before fora that were later found to lack jurisdiction. The learned Commercial Court, in holding otherwise, has misapplied Section 14 of the Limitation Act.

45. The contention of the learned counsel for the Respondents that the proceedings before the Consumer Forums do not fall within the ambit of "civil proceedings" for the purposes of Section 14 of the Limitation Act, in our considered opinion, is misplaced. Such an



interpretation would be inconsistent with both the object and the spirit of the Limitation Act.

46. The Hon'ble Supreme Court in *P. Sarathy v. SBI*¹⁵ has categorically held that any authority or tribunal having the trappings of a court is covered under the expression “court” appearing in Section 14 of the Limitation Act, and it need not be confined merely to civil courts. The relevant portion of the judgment reads as under:

“12. It will be noticed that Section 14 of the Limitation Act does not speak of a “civil court” but speaks only of a “court”. It is not necessary that the court spoken of in Section 14 should be a “civil court”. Any authority or tribunal having the trappings of a court would be a “court” within the meaning of this section.

13. In *Thakur Jugal Kishore Sinha v. Sitamarhi Central Coop. Bank Ltd.* [AIR 1967 SC 1494 : 1967 Cri LJ 1380] this Court, while considering the question under the Contempt of Courts Act, held that the Registrar under the Bihar and Orissa Cooperative Societies Act was a court. It was held that the Registrar had not merely the trappings of a court but in many respects he was given the same powers as was given to an ordinary civil court by the Code of Civil Procedure including the powers to summon and examine witnesses on oath, the power to order inspection of documents and to hear the parties. The Court referred to the earlier decisions in *Bharat Bank Ltd. v. Employees* [1950 SCC 470 : AIR 1950 SC 188 : 1950 SCR 459] ; *Maqbool Hussain v. State of Bombay* [(1953) 1 SCC 736 : AIR 1953 SC 325 : 1953 SCR 730] and *Brajnandan Sinha v. Jyoti Narain* [AIR 1956 SC 66 : (1955) 2 SCR 955] . The Court approved the rule laid down in these cases that in order to constitute a court in the strict sense of the term, an essential condition is that the court should have, apart from having some of the trappings of a judicial tribunal, power to give a decision or a definitive judgment which has finality and authoritativeness which are the essential tests of a judicial pronouncement.

14. In *Pritam Kaur v. Sher Singh* [AIR 1983 P&H 363] the proceedings before the Collector under the Redemption of Mortgages (Punjab) Act (2 of 1913) were held to be civil proceedings. It was held that the “court”, contemplated under Section 14 of the Limitation Act, does not necessarily mean the “civil court” under the Code of Civil Procedure. It was further held that any tribunal or authority, deciding the rights of parties, will be

¹⁵ (2000) 5 SCC 355



treated to be a “court”. Consequently, benefit of Section 14 of the Limitation Act was allowed in that case. This decision was followed by the Himachal Pradesh High Court in ***Bansi Ram v. Khazana*** [AIR 1993 HP 20] .

15. Applying the above principles in the instant case, we are of the opinion that the Deputy Commissioner of Labour (Appeals), which was an authority constituted under Section 41(2) of the Tamil Nadu Shops and Establishments Act, 1947 to hear and decide appeals, was a “court” within the meaning of Section 14 of the Limitation Act and the proceedings pending before him were civil proceedings. It is not disputed that the appellant could file an appeal before the Local Board of the Bank, which was purely a departmental appeal. In this view of the matter, the entire period of time from the date of institution of the departmental appeal as also the period from the date of institution of the appeal under Section 41(2) before the Deputy Commissioner of Labour (Appeals) till it was dismissed will, therefore, have to be excluded for computing the period of limitation for filing the suit in question. If the entire period is excluded, the suit, it is not disputed, would be within time.”

(emphasis supplied)

47. The Hon’ble Supreme Court, in ***M.P. Steel Corporation v. Commissioner of Central Excise***¹⁶, exhaustively examined the scope and applicability of Section 14 of the Limitation Act, while considering earlier precedents including ***P. Sarathy*** (*supra*). The Apex Court, after analyzing the relevant provisions of the Limitation Act, particularly Sections 13, 14, and 21, *inter alia*, held that the Limitation Act applies strictly to suits, appeals, and applications filed before courts established under the Constitution of India. However, the Apex Court further clarified that even where the Limitation Act does not, in terms, apply to quasi-judicial bodies or tribunals, the underlying principles embodied in the Limitation Act, including Section 14, would nevertheless govern their proceedings. The relevant extract from ***M.P. Steel Corporation*** (*supra*) is reproduced hereunder:

¹⁶ (2015) 7 SCC 58



“38. We have already held that the Limitation Act including Section 14 would not apply to appeals filed before a quasi-judicial tribunal such as the Collector (Appeals) mentioned in Section 128 of the Customs Act. However, this does not conclude the issue. There is authority for the proposition that even where Section 14 may not apply, the principles on which Section 14 is based, being principles which advance the cause of justice, would nevertheless apply. We must never forget, as stated in *Bhudan Singh v. Nabi Bux* [(1969) 2 SCC 481] that justice and reason is at the heart of all legislation by Parliament. This was put in very felicitous terms by Hegde, J. as follows: (SCC p. 485, para 9)

9. “Before considering the meaning of the word ‘held’ in Section 9, it is necessary to mention that it is proper to assume that the lawmakers who are the representatives of the people enact laws which the society considers as honest, fair and equitable. The object of every legislation is to advance public welfare. In other words as observed by Crawford in his book on ‘*Statutory Constructions*’ that the entire legislative process is influenced by considerations of justice and reason. Justice and reason constitute the great general legislative intent in every piece of legislation. Consequently where the suggested construction operates harshly, ridiculously or in any other manner contrary to prevailing conceptions of justice and reason, in most instances, it would seem that the apparent or suggested meaning of the statute, was not the one intended by the lawmakers. In the absence of some other indication that the harsh or ridiculous effect was actually intended by the legislature, there is little reason to believe that it represents the legislative intent.”

39. This is why the principles of Section 14 were applied in *J. Kumaradasan Nair v. Iric Sohan* (2009) 12 SCC 175, to a revision application filed before the High Court of Kerala. The Court held: (SCC pp. 180-81, paras 16-18)

16. “The provisions contained in Sections 5 and 14 of the Limitation Act are meant for grant of relief where a person has committed some mistake. The provisions of Sections 5 and 14 of the Limitation Act alike should, thus, be applied in a broadbased manner. When sub-section (2) of Section 14 of the Limitation Act per se is not applicable, the same would not mean that the principles akin thereto would not be applied. Otherwise, the provisions of Section 5 of the Limitation Act would apply. There cannot be any doubt whatsoever that the same would be applicable to a case of this nature.

17. There cannot furthermore be any doubt whatsoever that having regard to the definition of ‘suit’ as contained in



Section 2(I) of the Limitation Act, a revision application will not answer the said description. But, although the provisions of Section 14 of the Limitation Act per se are not applicable, in our opinion, the principles thereof would be applicable for the purpose of condonation of delay in filing an appeal or a revision application in terms of Section 5 thereof.

18. It is also now a well-settled principle of law that mentioning of a wrong provision or non-mentioning of any provision of law would, by itself, be not sufficient to take away the jurisdiction of a court if it is otherwise vested in it in law. While exercising its power, the court will merely consider whether it has the source to exercise such power or not. The court will not apply the beneficent provisions like Sections 5 and 14 of the Limitation Act in a pedantic manner. When the provisions are meant to apply and in fact found to be applicable to the facts and circumstances of a case, in our opinion, there is no reason as to why the court will refuse to apply the same only because a wrong provision has been mentioned. In a case of this nature, sub-section (2) of Section 14 of the Limitation Act per se may not be applicable, but, as indicated hereinbefore, the principles thereof would be applicable for the purpose of condonation of delay in terms of Section 5 thereof.”

40. The Court further quoted from *Consolidated Engg. Enterprises* [(2008) 7 SCC 169] an instructive passage: (*Iric Sohan case* [(2009) 12 SCC 175], SCC p. 183, para 21)

21. “In *Consolidated Engg. Enterprises v. Irrigation Deptt.* [(2008) 7 SCC 169] this Court held: (SCC p. 181, para 22)

22. “The policy of the section is to afford protection to a litigant against the bar of limitation when he institutes a proceeding which by reason of some technical defect cannot be decided on merits and is dismissed. While considering the provisions of Section 14 of the Limitation Act, proper approach will have to be adopted and the provisions will have to be interpreted so as to advance the cause of justice rather than abort the proceedings. It will be well to bear in mind that an element of mistake is inherent in the invocation of Section 14. In fact, the section is intended to provide relief against the bar of limitation in cases of mistaken remedy or selection of a wrong forum. On reading Section 14 of the Act it becomes clear that the legislature has enacted the said section to exempt a certain period covered by a bona fide litigious activity. Upon the words used in



the section, it is not possible to sustain the interpretation that the principle underlying the said section, namely, that the bar of limitation should not affect a person honestly doing his best to get his case tried on merits but failing because the court is unable to give him such a trial, would not be applicable to an application filed under Section 34 of the 1996 Act. The principle is clearly applicable not only to a case in which a litigant brings his application in the court, that is, a court having no jurisdiction to entertain it but also where he brings the suit or the application in the wrong court in consequence of bona fide mistake or (sic of) law or defect of procedure. Having regard to the intention of the legislature this Court is of the firm opinion that the equity underlying Section 14 should be applied to its fullest extent and time taken diligently pursuing a remedy, in a wrong court, should be excluded.'

See *Shakti Tubes Ltd. v. State of Bihar* [(2009) 1 SCC 786.]”

41. Various provisions of the Limitation Act are based on advancing the cause of justice. Section 6 is one such. It reads as follows:

“6. **Legal disability.**—(1) Where a person entitled to institute a suit or make an application for the execution of a decree is, at the time from which the prescribed period is to be reckoned, a minor or insane, or an idiot, he may institute the suit or make the application within the same period after the disability has ceased, as would otherwise have been allowed from the time specified therefor in the third column of the Schedule.

(2) Where such person is, at the time from which the prescribed period is to be reckoned, affected by two such disabilities, or where, before his disability has ceased, he is affected by another disability, he may institute the suit or make the application within the same period after both disabilities have ceased, as would otherwise have been allowed from the time so specified.

(3) Where the disability continues up to the death of that person, his legal representative may institute the suit or make the application within the same period after the death, as would otherwise have been allowed from the time so specified.

(4) Where the legal representative referred to in sub-section (3) is, at the date of the death of the person whom he represents, affected by any such disability, the rules contained in sub-sections (1) and (2) shall apply.



(5) Where a person under disability dies after the disability ceases but within the period allowed to him under this section, his legal representative may institute the suit or make the application within the same period after the death, as would otherwise have been available to that person had he not died.

Explanation. —For the purposes of this section, ‘minor’ includes a child in the womb.”

On the assumption that Section 6 does not apply on the facts of a given case, can it be said that the principles on which it is based have no application? Suppose, in a given case, the person entitled to institute a proceeding not governed by the Limitation Act were a minor, a lunatic or an idiot, would he not be entitled to institute such proceedings after such disability has ceased, for otherwise he would be barred by the period of limitation contained in the particular statute governing his rights. This section again is a pointer to the fact that courts always lean in favour of advancing the cause of justice where a clear case is made out for so doing.

42. However, it remains to consider whether Shri Sanghi is right in stating that Section 128 is a complete code by itself which necessarily excludes the application of Section 14 of the Limitation Act. For this proposition he relied strongly on **Parson Tools [(1975) 4 SCC 22]** which has been discussed hereinabove. As has already been stated, **Parson Tools [(1975) 4 SCC 22]** was a judgment which turned on the three features mentioned in the said case. Unlike the U.P. Sales Tax Act, there is no provision in the Customs Act which enables a party to invoke suo motu the appellate power and grant relief to a person who institutes an appeal out of time in an appropriate case. Also, Section 10 of the U.P. Sales Tax Act dealt with the filing of a revision petition after a first appeal had already been rejected, and not to a case of a first appeal as provided under Section 128 of the Customs Act. Another feature, which is of direct relevance in this case, is that for revision petitions filed under the U.P. Sales Tax Act a sufficiently long period of 18 months had been given beyond which it was the policy of the legislature not to extend limitation any further. This aspect of **Parson Tools [(1975) 4 SCC 22]** has been explained in **Consolidated Engg. [(2008) 7 SCC 169]** in some detail by both the main judgment as well as the concurring judgment. In the latter judgment, it has been pointed out that there is a vital distinction between extending time and condoning delay. Like Section 34 of the Arbitration Act, Section 128 of the Customs Act is a section which lays down that delay cannot be condoned beyond a certain period. Like Section 34 of the Arbitration Act, Section 128 of the Customs Act does not lay down a long period. In these circumstances, to infer exclusion of Section 14 or the principles contained in Section 14 would be unduly harsh and would not advance the cause of justice. It must not be forgotten as is pointed



out in the concurring judgment in *Consolidated Engg.* [(2008) 7 SCC 169] that: (SCC p. 193, para 54)

54. "... Even when there is cause to apply Section 14, the limitation period continues to be three months and not more, but in computing the limitation period of three months for the application under Section 34(1) of the AC Act, the time during which the applicant was prosecuting such application before the wrong court is excluded, provided the proceeding in the wrong court was prosecuted bona fide, with due diligence. [*State of Goa v. Western Builders*, (2006) 6 SCC 239] therefore lays down the correct legal position."

43. Merely because *Parson Tools* [(1975) 4 SCC 22] also dealt with a provision in a tax statute does not make the ratio of the said decision apply to a completely differently worded tax statute with a much shorter period of limitation— Section 128 of the Customs Act. Also, the principle of Section 14 would apply not merely in condoning delay within the outer period prescribed for condonation but would apply dehors such period for the reason pointed out in *Consolidated Engg.* [(2008) 7 SCC 169] above, being the difference between exclusion of a certain period altogether under Section 14 principles and condoning delay. As has been pointed out in the said judgment, when a certain period is excluded by applying the principles contained in Section 14, there is no delay to be attributed to the appellant and the limitation period provided by the statute concerned continues to be the stated period and not more than the stated period. **We conclude, therefore, that the principle of Section 14 which is a principle based on advancing the cause of justice would certainly apply to exclude time taken in prosecuting proceedings which are bona fide and with due diligence pursued, which ultimately end without a decision on the merits of the case.**"

(emphasis supplied)

48. At this stage, we also take note of various pronouncements of the Hon'ble Supreme Court, *inter alia*, *Laxmi Engineering Works Vs. P.S.G. Industrial Institute*¹⁷, *Trai Foods Vs. National Insurance Co.*¹⁸ etc, wherein the benefit of exemption of period, under Section 14 of the Limitation Act, spent in litigation before the Commission has been expressly granted. Similarly, the Hon'ble Supreme Court in

¹⁷ (1995) 3 SCC 583

¹⁸ (2004) 13 SCC 656



*Shakti Tubes Ltd. v. State of Bihar*¹⁹ held that Section 14 of the Limitation Act must be interpreted liberally to advance the cause of justice.

49. To support their case, the learned counsel for the Respondents has placed reliance on *Madhavrao Narayanrao (supra)*, *U.P. Jal Vidyut Nigam Ltd. (supra)*, and *K.G. Khosla & Co. (supra)*. However, it is a well-settled principle that the applicability of Section 14 of the Limitation Act depends on the peculiar facts and circumstances of each case. The perusal of the said judgments reflects that those are fact-specific and, therefore, distinguishable on several material aspects.

50. On a conspectus of the Judgments referred to above, it is deducible that, Section 14 is a remedial provision intended to protect a litigant from being penalized for pursuing remedies, *bona fide*, before an incorrect or incompetent forum. A restrictive reading, as suggested by the Respondents, in our considered opinion, would defeat this very purpose.

51. In view of the foregoing discussion, we are of the considered opinion that the Appellant's conduct demonstrates due diligence and *bona fide* pursuit of remedies, fulfilling the conditions envisaged under Section 14 of the Limitation Act.

DECISION:

52. For the reasons elaborated above, the Appeal stands allowed. The Impugned Judgment dated 18.05.2024, rendered in CS(COMM) No. 194/2021 by the learned Commercial Court is set aside. Consequently, CS(COMM) No. 194/2021 is restored to the file of the

¹⁹ (2009) 1 SCC 786



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learned Commercial Court for further proceedings in accordance with law.

53. It is further clarified that all questions of fact and law shall remain open, and the learned Commercial Court shall decide the matter uninfluenced by any observations made in the present judgment, which are confined solely to the limited issue addressed herein.

54. The present Appeal, along with pending application(s), if any, stands disposed of in the above terms.

55. No order as to costs.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
NOVEMBER 4, 2025/sm/her

Signature Not Verified

Digitally Signed
By: HARVINDER KAUR
BHATIA
Signing Date: 04.11.2025
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