

**Court No. - 4**

**Case :-** CIVIL MISC REVIEW APPLICATION No. - 226 of 2025

**Applicant :-** Lal Chand

**Opposite Party :-** Manoj Kumar

**Counsel for Applicant :-** Bansh Raj

**Counsel for Opposite Party :-** Abhishek Kumar  
Saroj

**Hon'ble Ajit Kumar,J.**

1. Heard learned counsel for the parties.
2. I have perused the report submitted by Sri Mayur Jain, Registrar (J)(Listing) dated 07.07.2025 in compliance of the order of this Court dated 02.07.2025. The conclusion drawn in the report by Registrar (J)(Listing) is that though the review petitions are time barred and hence defective but as a rule of practice in the High Court, review applications/petitions are registered as regular petitions with remark of delay of number of days.
3. In the considered view of the Court in respect of the writ petition it can be said that law of limitation is not attracted and hence there cannot be a defective petition except for certified copies etc. and rightly so the writ petitions are always registered as regular writ petitions but in matters of miscellaneous applications where the law of limitation is attracted and even where the Limitation Act,1963 even if not attracted in misc. application filed in the writ petitions or in respect of the orders passed in the writ petitions, the principles of law of limitation would still be attracted in matter of review application as any judgment finally delivered, disposing of the writ petition would not invite any misc. application to re-open the same. The moment judgment is delivered in the writ petition the Court

becomes *functus officio* and hence in these circumstances only review petitions are entertainable.

4. The Limitation Act, 1963 is fully attracted in review petitions and therefore, if review petition is to be registered as review petition, a case independent of the proceedings of writ petitions, it should be reported as defective for delays if any. The law of limitation has an object behind the same and the object is that if a party causes delay in approaching the Court in respect of any matter which may have created rights in respect of a third party or its adversery, then such third party or adversely would stand prejudiced in the event a time barred delayed petition is entertained as a regular review petition despite being barred by time and for valuable rights accrued in such a third party or adversery.

5. In the matter of ***Tilokchand and Motichand & Others v. H.B. Munshi and another:(1969) 1 SCC 110***, per majority it was observed that "*under Article 32 or Article 226 corresponds to a remedy in an ordinary suit and the latter remedy is subject to the bar of a statute of limitation, the Court in its writ jurisdiction acts in the absence of special circumstances imposes the same limitation on the summary remedy in the writ jurisdiction.*" The Court further observed that "*Similarly this Court acts on the analogy of the statute of limitation in respect of a claim under Art. 32 of the Constitution though such claim is not the subject of any express statutory bar of limitation. If the right to a property is extinguished by prescription under s. 27 of the Limitation Act, 1963 the petitioner has no subsisting right which can be enforced under Art. 32 (see Sobhraj Odharmal v. Slate of Rajasthan(2). In other cases where the remedy only and not the right is extinguished by limitation, it is on grounds of public policy that the Court refuses to entertain stale claims under Art. 32.*

*The statutes of limitation are rounded on sound principles of public policy. As observed in Whitley Stoke's Anglo-Indian Codes, Vol. 11 p. '940: "The law is rounded on public policy, its aim being to secure the quiet of the community, to suppress fraud and perjury, to quicken diligence, and to prevent oppression."*

6. Reiterating the relevance and significance of limitation law and emphasising upon principle that Section 5 of the Limitation Act should not be liberally interpreted, very recently Supreme Court in the matter of Pathapati Subba Reddy (Died) by L.Rs. and Others v. Special Deputy Collector (LA): 2024 SCC OnLine SC 513 quoted the observations made in another judgment of it in the case of **Basawaraj v. Special Land Acquisition Officer:(2013) 14 SCC 81** produced paragraph 12 thereof, which runs as under:

*"12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. "A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation." The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same. The legal maxim "dura lex sed lex" which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute. "*

7. This limitation according to me acquires more significance and relevance when a review petition is preferred in respect of the judgment which has concluded the proceedings *qua* rights and liabilities of parties in writ petition and hence the petition should be considered to be defective so long as the delay in filing of such petitions is not condoned.

8. In such circumstances therefore, even if by way of rule of practice and the tradition in the High Court if a review petition used to be registered as regular petition, in view of principles of law of limitation as is applicable to all other proceedings like second appeals and first appeals, the review petition in writ petition's order shall also be registered as a defective one in the event it is barred by limitation. The notices are required therefore, to be issued in the first instance upon an application seeking condonation of delay with a right to the other party to be heard before the delay is condoned and defect is removed. Any right would accrue to the applicant seeking review only after such petition becomes competent with a condonation of delay. Accordingly, I hereby direct that this practice of registering review petition as a regular petition and not as defective petition even if barred by time should be done away with.

9. The Stamp Reporter is directed therefore, to report afresh this review petition in the light of the observations made. Hence, this petition is remitted to the Stamp Reporter to re-report it as a defective petition and place before the Court again on 09.07.2025 as fresh.

10. Put up this case as fresh on **09.07.2025**.

**Order Date :- 7.7.2025**

Deepika