

IN RE: COGNIZANCE FOR EXTENSION OF LIMITATION A

Miscellaneous Application No. 665 of 2021

in

(SMW (C) No. 3 of 2020)

SEPTEMBER 23,2021 B

**[N. V. RAMANA, CJI, L. NAGESWARA RAO AND
SURYA KANT, JJ.]**

Covid-19 Pandemic – Limitation, extension of – On 23.03.2020, this Court had directed extension of the period of limitation in all proceedings before the Courts/Tribunals including this Court w.e.f. 15.03.2020 till further orders – On 08.03.2021, since there was reduction in prevalence of Covid-19 virus, an order was passed that in computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 14.03.2021 would be excluded – Thereafter, there was a second surge in COVID-19 cases which had a devastating and debilitating effect – MA no.665 of 2021 was filed by Advocates on Record Association seeking restoration of Order dated 23.03.2020 – Order dated 23.03.2020 was restored and in continuation of the order dated 08.03.2021, with directions that the period(s) of limitation, as prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till further orders – There is consensus that there is no requirement for continuance of the initial order passed by this Court on 23.03.2020 and relaxation of the period of limitation need not be continued any further, therefore, MA no.665 of 2021 is disposed of with following directions: In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 02.10.2021 shall stand excluded – Consequently, the balance period of limitation remaining as on 15.03.2020, if any, shall become available with effect from 03.10.2021 – In cases where the limitation would have expired during the period between 15.03.2020 till 02.10.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 03.10.2021 – In the event the actual balance period of limitation remaining, with effect from 03.10.2021, is greater than 90 days, that longer H

- A *period shall apply – The period from 15.03.2020 till 02.10.2021 shall also stand excluded in computing the periods prescribed under ss.23 (4) and 29A of the Arbitration and Conciliation Act, 1996, s.12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of s.138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings – The Government of India shall amend the guidelines for containment zones, to state – “Regulated movement will be allowed for medical emergencies, provision of essential goods and services, and other necessary functions, such as, time bound applications, including for legal purposes, and educational and job-related requirements.”*
- B *proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings – The Government of India shall amend the guidelines for containment zones, to state – “Regulated movement will be allowed for medical emergencies, provision of essential goods and services, and other necessary functions, such as, time bound applications, including for legal purposes, and educational and job-related requirements.”*
- C *functions, such as, time bound applications, including for legal purposes, and educational and job-related requirements.”*

CIVIL ORIGINAL JURISDICTION: Miscellaneous Application No. 665 of 2021 in SMW (C) No. 03 of 2020.

- D (Under Article 32 of The Constitution of India)
 - K. K. Venugopal, AG, S. Niranjan Reddy, P. H. Parekh, Soumya Chakraborty, Vikas Singh, Sr. Advs., B. V. Balaram Das, Shivaji M. Jadhav, Manoj K. Mishra, Dr. Joseph S. Aristotle, Ms. Diksha Rai, Nikhil Jain, Atulesh Kumar, Dr. Aman Hingorani, Ms. Anzu Varkey, Sachin Sharma, Aljo Joseph, Varinder Kumar Sharma, Abhinav Ramkrishna,
 - E Mahfooz Ahsan Nazki, Polanki Gowtham, Shaik Mohamad Haneef, T. Vijaya Bhaskar Reddy, Amitabh Sinha, K. V. Girish Chowdary, Sameer Parekh, Kshatralashal Raj, Ms. Tanya Chaudhry, Ms. Pratyusha Priyadarshini, Ms. Nitika Pandey, Sanjai Kumar Pathak, Ms. Shashi Pathak, Amit Sharma, Dipesh Sinha, Ms. Pallavi Barua, Prateek Kumar,
 - F Ashok Nijhawan, Aman Bhalla, Ms. Anindita Mitra, Pawan Reley, Akshay Lodhi, Vinod Sharma, Joydip Roy, Sajal Awasthi, Binod Kumar Singh, Parijat Som, Yashvardhan, Apoorv Shukla, Ms. Smita Kant, Ms. Ishita Farsaiya, Ms. Prabhleen Kaur, Ms. Kritika Nagpal, Ms. Bhavya Bhatia, Arjun Garg, Aakash Nandolia, Ms. Sagun Srivastava, Ms. Sunieta Ojha, P. I. Jose, Prashant K. Sharma, Jenis V. Francis, Avijit Mani Tripathi,
 - G T. K. Nayak, Sahil Tagotra, A. P. Mayee, M/s VKC Law Offices, Mukesh K. Giri, Kunal Chatterji, Ms. Maitrayee Banerjee, Abhimanyu Tewari, Ms. Eliza Bar, Apoorv Kurup, Ms. Nidhi Mittal, Ms. Binu Tamta, Dhruv Tamta, Ms. Pratibha Jain, Divyakant Lahoti, Parikshit Ahuja, Ms. Praveena Bisht, Ms. Madhur Jhavar, Ms. Vindhya Mehra, Kartik Lahoti, Rahul Maheshwari, Ms. Shivangi Malhotra, Tapesh Kumar Singh,
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Aditya Pratap Singh, Mrs. L. Bhaswati Singh, Aditya Narayan Das, A
Ms. Uttara Babbar, Manan Bansal, Advs. for the appearing parties.

The following Order of the Court was passed :

O R D E R

1. Due to the outbreak of COVID-19 pandemic in March, 2020, B
this Court took *Suo Motu* cognizance of the difficulties that might be faced by the litigants in filing petitions/ applications/ suits/ appeals/ all other proceedings within the period of limitation prescribed under the general law of limitation or under any special laws (both Central and/or State). On 23.03.2020, this Court directed extension of the period of limitation in all proceedings before the Courts/Tribunals including this Court w.e.f. 15.03.2020 till further orders. C

2. Considering the reduction in prevalence of COVID-19 virus and normalcy being restored, the following order was passed in the *Suo Motu* proceedings on 08.03.2021: D

"1. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 14.03.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2020, if any, shall become available with effect from 15.03.2021. E

2. In cases where the limitation would have expired during the period between 15.03.2020 till 14.03.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15.03.2021. In the event the actual balance period of limitation remaining, with effect from 15.03.2021, is greater than 90 days, that longer period shall apply. F

3. The period from 15.03.2020 till 14.03.2021 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings. G

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- A 4. *The Government of India shall amend the guidelines for containment zones, to state.*
- “Regulated movement will be allowed for medical emergencies, provision of essential goods and services, and other necessary functions, such as, time bound applications, including for legal purposes, and educational and job-related requirements.”
- B 3. Thereafter, there was a second surge in COVID-19 cases which had a devastating and debilitating effect. The Supreme Court Advocates on Record Association (SCAORA) intervened in the *Suo Motu* proceedings by filing Miscellaneous Application No.665 of 2021 seeking restoration of the order dated 23.03.2020. Acceding to the request made by SCAORA, this Court passed the following order on 27.04.2021:
- “We also take judicial notice of the fact that the steep rise in COVID-19 Virus cases is not limited to Delhi alone but it has engulfed the entire nation. The extraordinary situation caused by the sudden and second outburst of COVID-19 Virus, thus, requires extraordinary measures to minimize the hardship of litigant-public in all the states. We, therefore, restore the order dated 23rd March, 2020 and in continuation of the order dated 8th March, 2021 direct that the period(s) of limitation, as prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till further orders.
- C It is further clarified that the period from 14th March, 2021 till further orders shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.
- D We have passed this order in exercise of our powers under Article 142 read with Article 141 of the Constitution of
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India. Hence it shall be a binding order within the meaning of Article 141 on all Courts/Tribunals and Authorities.”

4. In spite of all the uncertainties about another wave of the deadly COVID-19 virus, it is imminent that the order dated 08.03.2021 is restored as the situation is near normal.

5. We have heard learned Attorney General for India, Mr. Vikas Singh, learned Senior Counsel for the Election Commission of India, Mr. Shivaji M. Jadhav, learned counsel for the SCAORA and other learned Advocates. There is consensus that there is no requirement for continuance of the initial order passed by this Court on 23.03.2020 and relaxation of the period of limitation need not be continued any further. The contention of Mr. Vikas Singh is that the order dated 08.03.2021 can be restored, subject to a modification. He submitted that paragraph No.2 of the order dated 08.03.2021 provides that the limitation period of 90 days will start from 15.03.2021 notwithstanding the actual balance of period of limitation in cases where limitation has expired between 15.03.2020 and 14.03.2021. According to him, the period of limitation prior to 15.03.2020 has to be taken into account and only the balance period of limitation should be made available for the purpose of filing cases.

6. The order dated 23.03.2020 was passed in view of the extraordinary health crisis. On 08.03.2021, the order dated 23.03.2020 was brought to an end, permitting the relaxation of period of limitation between 15.03.2020 and 14.03.2021. While doing so, it was made clear that the period of limitation would start from 15.03.2021. As the said order dated 08.03.2021 was only a one-time measure, in view of the pandemic, we are not inclined to modify the conditions contained in the order dated 08.03.2021.

7. The learned Attorney General for India stated that paragraph No.4 of the order dated 08.03.2021 should be continued as there are certain containment zones in some States even today.

8. Therefore, we dispose of the M.A. No.665 of 2021 with the following directions: -

I. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 02.10.2021 shall stand excluded. Consequently, the balance

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- A period of limitation remaining as on 15.03.2020, if any, shall become available with effect from 03.10.2021.
- II. In cases where the limitation would have expired during the period between 15.03.2020 till 02.10.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 03.10.2021. In the event the actual balance period of limitation remaining, with effect from 03.10.2021, is greater than 90 days, that longer period shall apply.
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- III. The period from 15.03.2020 till 02.10.2021 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.
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- IV. The Government of India shall amend the guidelines for containment zones, to state.
- E “Regulated movement will be allowed for medical emergencies, provision of essential goods and services, and other necessary functions, such as, time bound applications, including for legal purposes, and educational and job-related requirements.”