1. Decided On: 10.03.2021

Bharat Sanchar Nigam Ltd. and Ors. Vs. Nortel Networks India Pvt. Ltd.

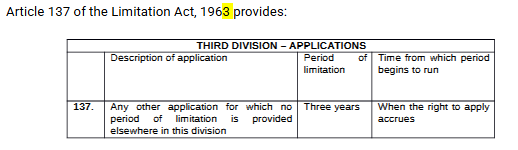
Para 4 of Judgement :

MANU/SC/0171/2021

Even though limitation was a mixed question of fact and law, and is ordinarily to be decided by the arbitral tribunal, in cases where the invocation of the arbitration agreement is ex facie time barred, the Court must reject the request for appointment of an arbitrator. The limitation for invoking arbitration, and seeking appointment of an arbitrator is at par with a civil action, and would be covered by Article 137 of the Schedule to the Limitation Act, 1963.

An action taken by a claimant must necessarily fall within the statutory period of 3 years from the date on which the right to apply accrues.

Para 10 :



2. Decided On: 03.09.2019

Geo Miller and Co. Pvt. Ltd. vs. Chairman, Rajasthan Vidyut Utpadan Nigam Ltd. (03.09.2019 - SC) MANU/SC/1198/2019

**Relevant Extract (Paras 8 & 11):**

"A claim for breach of contract containing a reference clause could be brought at any time, it might be 20 or 30 years after the cause of action had arisen, although the legislature has prescribed a limit of three years for the enforcement of such a claim in any application that might be made to the law courts."

"Therefore, the period of limitation for the commencement of arbitration runs from the date on which, had there been no arbitration clause, the cause of action would have accrued. Just as in the case of civil actions the claim is not to be brought after the expiration of a specified number of years from the date on which the cause of action accrued, so in the case of arbitrations, the claim is not to be put forward after the expiration of the specified number of years from the date when the claim accrued."

3. Decided On: 03.02.2011

Indian Oil Corporation Ltd. Vs. SPS Engineering Ltd.

MANU/SC/0122/2011

Para 11 of the judgment :

“If the contractor makes a claim a decade or so after completion of the work without referring to any acknowledgement of a liability… the claim is patently long time-barred…  
On the other hand, if the contractor makes a claim for payment beyond three years of completion of work but say within five years of completion… the court will not enter into a disputed question whether the claim was barred by limitation or not.”

This is the paragraph that indirectly refers to the 3-year limitation period.

4. Decided On: 01.03.2024

Arif Azim Co. Ltd. Vs. Aptech Ltd.

MANU/SC/0151/2024

Para 20:  
The petitioner revived the issue of non-payment after nearly **three years**, through a **legal notice dated 26.08.2021**, demanding payment and warning of legal action, including for breach of contract.

Para 49:  
Quoting *Geo Miller & Co. Pvt. Ltd. v. Rajasthan Vidyut Utpadan Nigam Ltd.* (MANU/SC/1198/2019):

“By virtue of Article 137 of the First Schedule to the Limitation Act, 1963, the limitation period for reference of a dispute to arbitration or for seeking appointment of an arbitrator is **three years** from the date on which the cause of action or the claim first arises.”

Para 58 (from *Secunderabad Cantonment Board v. B. Ramachandraiah & Sons*, MANU/SC/0185/2021):

“Once the 30-day period for appointment of arbitrator expires, **limitation begins to run**, and subsequent correspondence or rejections **do not restart** limitation. Applications under Section 11 filed beyond three years thereafter are **hopelessly time-barred**.”

Paras 88–91:

“The notice invoking arbitration was received on 29.11.2022 — within the **three-year period** from the cause of action. Hence, the claims are **not ex facie time-barred or dead**.”

“Courts must apply a **two-pronged test**:  
(1) Is the Section 11(6) petition itself time-barred?  
(2) Are the underlying claims *ex facie* dead or time-barred?  
If either answer is yes, the Court may refuse to appoint an arbitrator.”

Paras 90–94 (Conclusion):

“The present petition, having been filed within **three years** from the respondent’s failure to appoint an arbitrator, is **not hit by limitation**. Accordingly, **Justice Sanjay Kishan Kaul** (Former Judge, Supreme Court) was appointed as the **sole arbitrator**.”

“This Court reiterates that the **three-year limitation period** under Article 137 is an **unduly long duration** for Section 11 petitions. Parliament should consider **amending the Act** to prescribe a **shorter, specific limitation period** consistent with the spirit of expeditious arbitration.”

5. Decided On: 03.03.2006

V.K. Dewan and Co. vs. Delhi Jal Board and Ors. (06.10.2022 - DELHC)

MANU/DE/3813/2022

**Para 22 – Finding of Limitation**

“Perusal of the aforesaid facts make it clear that the present petition for appointment of an Arbitrator is clearly barred by limitation.”

**Para 23 – Cause of Action & Limitation Period**

“Cause of action in the present case arose in the year 2005, when completion certificate was issued by respondent-Delhi Jal Board and disputes arose in regard to payments payable to the petitioner. … Withdrawal of claims by the petitioner before the learned Arbitrator by way of letter dated 14.01.2008 did not stop the limitation period in any manner. No fresh cause of action can be said to have arisen in favour of the petitioner merely because the petitioner withdrew his claims by letter dated 14.01.2008.”

**Para 24–26 – Rejection of Section 43(4) Argument**

“Contention on behalf of petitioner that his claims are alive as on date in view of Section 43 (4) of the Act, is totally misplaced and liable to be rejected.  
… It is only in those cases where an arbitral award is set aside by the Court that the period between the commencement of the arbitration and date of the order of Court shall be excluded in computing the time prescribed by the Limitation Act.  
… Even otherwise, in the present case, claims were withdrawn by the petitioner and it is not a case where the Award was set aside by this Court so as to attract the provisions of Section 43(4).”

**Para 27 – Court’s Conclusion**

“The limitation period shall be counted from the year 2005, when the contract was completed and disputes arose between the parties … Once the time of limitation has begun to run, subsequent withdrawal of the claims by the petitioner would have no effect on the running of the limitation period. In view thereof, the present petition under Section 11 … is clearly barred by limitation.”

**Para 28–29 – Reliance on Supreme Court Precedents**

The Court relied on **Bharat Sanchar Nigam Limited v. Nortel Networks (India) Pvt. Ltd., (2021) 5 SCC 738**, where it was held that:

“It is only in the very limited category of cases, where there is not even a vestige of doubt that the claim is ex facie time-barred, or that the dispute is non-arbitrable, that the court may decline to make the reference.”