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The Supreme Court holds that the time spent pursuing a matter in good faith before the wrong forum will be excluded when computing the period of limitation

In a recent iteration, the Supreme Court of India (“**Supreme Court**”) in the case of *Purni Devi and Another v. Babu Ram and Another*¹ has held that in terms of Section 14 of the Limitation Act, 1963 (“**Limitation Act**”) the time period during which a plaintiff has pursued a matter diligently and in good faith against the same party before a wrong forum should be excluded when computing the limitation period before the court of competent jurisdiction.

Brief Facts

A suit for possession of property was decreed in favour of the predecessors in interest of Purni Devi (hereinafter referred to as the “**Plaintiff**”) by which Babu Ram and another (hereinafter referred to as the “**Defendants**”) were directed to deliver vacant and peaceful possession of property to the Plaintiff. The first and second appeals filed by the Defendants came to be dismissed in November 2000, resulting in the decree attaining finality.

In December 2000, the predecessor of the Plaintiff filed an application for execution of the decree before the Ld. Tehsildar (Settlement), which came to be rejected in January 2005 since it had not been filed before the court with appropriate jurisdiction. The Plaintiff filed a fresh application for execution of the decree before the Ld. Munsiff in October 2005 (“**Application**”), which was dismissed on account of being barred by limitation under the J&K Limitation Act. The revision application filed by the Plaintiff before the J&K HC was dismissed and the order of the Ld. Munsiff came to be affirmed for the reason that the Application was barred by limitation (“**Impugned Order**”). Being aggrieved by the Impugned Order, the Plaintiff filed an appeal before the Supreme Court.

Issue Before the Supreme Court

Whether the period spent by the Plaintiff in diligently pursuing the execution petition before the Ld. Tehsildar would be excluded for the purposes of computing the period of limitation?

Findings and Analysis

The Supreme Court allowed the appeal and set aside the Impugned Order while *inter alia* observing as follows:

¹ 2024 SCC OnLine SC 482

1. Section 14(2) of the Limitation Act, which is applicable to the State of Jammu and Kashmir and is *pari materia* to the Limitation Act excludes the period of limitation when proceedings are pursued with due diligence and good faith in a court “*which from defect of jurisdiction or other cause of a like nature, is unable to entertain it*”.
2. In *Consolidated Engg. Enterprises v. Principle Secy, Irrigation Department*², the Supreme Court had laid down the following conditions to be satisfied under Section 14 (2) of the Limitation Act - (a) both the prior and subsequent proceedings are civil proceedings prosecuted by the same party; (b) the prior proceeding had been prosecuted with due diligence and in good faith; (c) the failure of the prior proceeding was due to defect of jurisdiction or other cause of like nature; (d) the earlier proceeding and latter proceeding must relate to the same matter in issue; and (e) both proceedings are in a court. In the present case, these conditions were satisfied.
3. No substantial averment was made by the Defendants to substantiate the claim that the predecessor of the Plaintiff had approached the Ld. Tehsildar with any *mala fide* intention, in the absence of good faith, or with the knowledge that it was not the court having competent justification to execute the decree.
4. The Plaintiff had pursued the matter diligently and in a *bona fide* manner before what it believed to be the appropriate forum. Therefore, such period is bound to be excluded when computing limitation before the court having competent jurisdiction.

Conclusion

While parties must be diligent in pursuing matters before an appropriate forum, the findings in this judgment assist parties that may have pursued proceedings before an incorrect forum in good faith. It reiterates that such proceedings would not be barred by limitation.

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² (2008) 7 SCC 169







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