

## PART IV

## ACQUISITION OF OWNERSHIP BY POSSESSION

26. Acquisition of right to easements. (1) Where the access and use of light or air to and for any building have been peaceably enjoyed therewith as an easement, and as of right, without interruption, and for twenty years.

and where any way or watercourse, or the use of any water, or any other easement (whether affirmative or negative) has been peaceably and openly enjoyed by any person claiming title thereto as an easement and as of right without interruption, and for twenty years, the right to such access and use of light or air, way, watercourse, use of water, or other easement shall be absolute and indefeasible.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

(2) Where the property over which a right is claimed under sub-section (1) belongs to the <sup>1</sup>[Government], that sub-section shall be read as if for the words "twenty years" the words "sixty years" were substituted.

**Explanation.** Nothing is an interruption within the meaning of this section, unless where there is an actual discontinuance of the possession or enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced in for one year after the claimant has notice thereof and of the person making or authorizing the same to be made.

## Illustrations

- (a) A suit is brought in 1911 for obstructing a right of way, the defendant admits the obstruction, but denies the right of way. The plaintiff proves that the right was peaceably and openly enjoyed by him, claiming title thereto as

<sup>1</sup> Amended by Act 1961.

an easement and as of right, without interruption from 1st January, 1890, to 1st January, 1910. The plaintiff is entitled to judgment.

[Ss. 27-28  
1890,

- (b) In a like a suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff, on one occasion during the twenty years, had asked his leave to enjoy the right. The suit shall be dismissed.

**27. Exclusion in favour of reversioner of servant tenement.** Where any land or water upon, over or from which any easement has been enjoyed or derived has been held under or by virtue of any interest for life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of such easement during the continuance of such interest or term shall be excluded in the computation of the period of twenty years in case the claim, is within three years next after the determination of such interest or term, resisted by the person entitled, on such determination, to the said land or water.

### Illustrations

A sues for a declaration that he is entitled to a right of way over B's land. A proves that he has enjoyed the right for twenty-five years; but B shows that during ten of three years C, a Hindu widow, had a life interest in the land, that on C's death B became entitled to the land, and that within two years after C's death he contested A's claim to the right. The suit must be dismissed, as A, with reference to the provisions of this section, has only proved enjoyment for fifteen years.

**[28. Extinguishment of right to property.** At the determination of the period hereby limited to any person for instituting a suit for possession of any property, his right to such property shall be extinguished.]

### COMMENTS

**Decree on the basis of adverse possession.** No decree can be passed on the ground of adverse possession after 31st of August, 1991. No plea of adverse possession can be raised in defence nor is available to any defendant nor any suit for recovery of possession can be dismissed after the said target date on the ground of title having matured on the basis of adverse possession. Question of limitation would not arise. [2004 YLR 1395].

**Suit for prescription of title.** Mortgagee bringing suit for declaration that he has prescribed title. A suit for prescription of title can be fruitful only if mortgagee is fortunate to obtain a decree before 31-8-1991. After target date, the right on title of the mortgagor shall not be deemed extinguished. F mortgagee makes an option to bring a suit for prescription of title, it must be brought so as to obtain a decree before 31-8-1991. [PLJ 2007 S.C. 346].

S. 29-32]

**Adverse possession.** No decree for declaration on the basis of adverse possession or acquiring prescription could be entertained. [PLJ 2009 Pesh. 102]. Whereunder on the basis of adverse possession for more than 12 years, no suit for possession could be entertained was declared repugnant to injunction of Islam. [PLJ 2009 Pesh. 102]. Such possession is to be proved as open and hostile with a declared denial or real owner's title and to his knowledge. [2009 MLD 359].

## PART V

### SAVINGS AND REPEALS

**29. Saving.** (1) Nothing in this Act shall affect Section 25 of the Contract Act, 1872.

(2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed therefor by the First Schedule, the provisions of Section 3 shall apply, as if such period were prescribed therefor in that Schedule, and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law:

(a) the provisions contained in Section 4, Sections 9 to 18, and Section 22 shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law; and

(b) the remaining provisions of this Act shall not apply.

(3) Nothing in this Act shall apply to suits under the Divorce Act (IV of 1869).

(4) Sections 26 and 27 and the definition of "easement" in Section 2 shall not apply to cases arising in territories to which the Easements Act, 1882, may for the time being extend.

### COMMENTS

**Application for readmission of appeal.** Where no time is provided in the enactments, S. 29 Limitation Act, 1908 would not apply. [PLD 2004 Kar. 555].

**30. and 31.** [Provision for suits for which the period prescribed is shorter than that prescribed by the Limitation Act, 1877. Provision for suits by certain mortgagees in territories mentioned in the Second Schedule]. Rep. by the Repealing and Amending Act, 1930 (VIII of 1930), S. 8 and Second Schedule.

**32. [Repeals]** Repealed by the Second Repealing and Amending Act, 1914 (XVII of 1914), S. 3 and Second Schedule.

# THE FIRST SCHEDULE

(See Section 3)

## FIRST DIVISION: SUIT

Description of suit	Period of limitation	Time from which period begins to run
1	2	3
<b>Part I. Thirty days</b>		
1. To contest an award of the Board of Revenue under the Waste Lands (Claims) Act, 1863.	Thirty days	When notice of the award is delivered to plaintiff.
<b>Part II. Ninety days</b>		
2. For compensation for doing or for omitting to do an act alleged to be in pursuance of any enactment in force for the time being in Pakistan.	Ninety days	When the act or omission takes place.
<b>Part III. Six months</b>		
3. Under the Specific Relief Act, 1877, Section 9, to recover possession of immovable property.	Six months	When the dispossession occurs.
4. <i>[Repealed by the Repealing and Amending Act, 1937 (XX of 1937), S. 3 and Schedule II.]</i>		
<b>Part IV--One year</b>		
5. Under the summary procedure referred to in Section 128(2)(f) of the Code of Civil Procedure, 1908 <sup>1</sup> [where the provision of such summary procedure does not exclude the ordinary procedure in such suits] <sup>2</sup> [* * *].	<sup>3</sup> [One year]	When the debt or liquidated demand six months becomes payable or when the property becomes recoverable.

1. Inserted by the Limitation (Amendment) Act, 1925 (XXX of 1925), S. 2.  
 2. The words "and under.....said Code" omitted by Ordinance 9 of 1961.  
 3. Substituted for "six months", *ibid*.

Sch.]

6. Upon a Statute, Act, Regulation or bye-law, for a penalty or forfeiture.	One year	When the penalty or forfeiture is incurred.
7. For the wages of a household servant, artisan, or labourer [****].	5[One year]	When the wages accrue due.
8. For the price of food <sup>6</sup> or drink sold by the keeper of a hotel, tavern or lodging-house.	[One year]	When the food or drink is delivered.
9. For the price of lodging.	[One year]	When the price becomes payable.
10. To enforce a right of pre-emption whether the right is founded on law, or general usage, or on special contract.	[One year]	When the purchaser takes, under the sale sought to be impeached, physical possession of the whole of the property sold, or, where the subject of the sale does not admit of physical possession, when the instrument of sale is registered.
11. By a person, against whom any of the following orders has been made to establish the right which he claims to the property comprised in the order.	One year	The date of the order.
(1) Order under the Code of Civil Procedure, 1908, on a claim preferred to, or an objection made to the attachment of, property attached in execution of a decree.	One year	The date of the order.
(2) Omitted by Act 26 of 1951.		

4. The words and figure "not provided for by this Schedule, Article 4" were omitted by the Repealing and Amending Act, 1939 (XXXIV of 1939), S. 2 and Sch. I [28.9.1939].

5. Substituted for "Ditto" by the Repealing and Amending Act, 1923 (XI of 1923), S. 2 and Sch. 1.

11A. By a person against whom an order has been made under the Code of Civil Procedure, 1908, upon an application by the holder of a decree for the possession of immovable property or by the purchaser or by the property or by the purchaser of such property sold in execution of a decree, complaining of resistance or obstruction to the delivery of possession thereof, or upon an application by any person dispossessed of such property in the delivery of possession thereof to the decree-holder or purchaser, to establish the right which he claims to the present possession of the property comprised in the order.

12. To set aside any of the following sales:

- (a) sale in execution of a decree of a Civil Court;
- (b) sale in pursuance of a decree or order of a Collector or other officer of revenue;
- (c) sale for arrears of Government revenue, or for any demand recoverable as such arrears;

One year

When the sale is confirmed or would otherwise have become final and conclusive had no such suit been brought.

(d) sale of a patni taluq sold for current arrears of rent.

**Explanation.** In this article "patni" includes any intermediate tenure saleable for current arrears of rent.

13. To alter or set aside a decision or order of a Civil Court in any proceeding other than a suit.

14. To set aside any act or order of an officer of Government in his official capacity, not herein otherwise expressly provided for.

15. Against Government to set aside any attachment, lease or transfer of immovable property by the Revenue Authorities for arrears of Government revenue.

16. Against Government to recover money paid under protest in satisfaction of a claim made by the Revenue Authorities on account of arrears of revenue or on account of demands recoverable as such arrears.

17. Against Government for compensation for land acquired for public purposes.

18. Like suit for compensation when the acquisition is not completed.

One year

The date of the final decision or order in the case by a Court competent to determine it finally.

One year

The date of the act or order.

One year

When the attachment lease or transfer is made.

One year

The date of determining the amount of the compensation.

One year

The date of the refusal to complete.

19.	For compensation for false imprisonment.	One year	When the imprisonment ends.
20.	By executors, administrators or representatives under the Legal Representatives' Suits Act, 1855 (XII of 1855)	One year	The date of the death of the person wronged.
21.	By executors, administrators or representatives under the Fatal Accidents Act, 1855 (XIII of 1855).	One year	The date of the death of the person killed.
22.	For compensation for any other injury to the person.	One year	When the injury is committed.
23.	For compensation for a malicious prosecution.	One year	When the plaintiff is acquitted, or the prosecution is otherwise terminated.
24.	For compensation for libel.	One year	When the libel is published.
25.	For compensation for slander	One year	When the words are spoken, or, if the words are not actionable in themselves, when the special damage complained of results.
26.	For compensation for loss of service occasioned by the seduction of the plaintiff's servant or daughter.	One year	When the loss occurs.
27.	For compensation for inducing a person to break a contract with the plaintiff.	One year	The date of the breach.
28.	For compensation for an illegal, irregular or excessive distress.	One year	The date of the distress.
29.	For compensation for wrongful seizure of movable property under legal process.	One year	The date of the seizure.



Sch. I

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|-------------------------|--|-----------|--|
| 30.                     | Against a carrier for compensation for losing or injuring goods.   | One year  | When the loss or injury occurs.  |
| 31.                     | Against a carrier for compensation for non-delivery of, or delay in delivering, goods.   | One year  | When the goods ought to be delivered.                                  |
| <b>Part V-Two years</b> |  |           |  |
| 32.                     | Against one who, having a right to use property for specific purposes, perverts it to other purposes.                            | Two years | When the perversion first becomes known to the person injured thereby. |
| 33.                     | Under the Legal Representatives Suits Act, 1855, against an executor.  | Two years | When the wrong complained of is done.                                  |
| 34.                     | Under the same Act against an administrator.   | Two years | -do-   |
| 35.                     | Under the same Act against any other representative.   | Two years | -do-   |
| 36.                     | For compensation for any malfeasance, misfeasance or non-feasance independent of contract and not herein specially provided for. | Two years | When the malfeasance, misfeasance or non-feasance takes place.         |

**Part VI-Three years**

- |     |   |             |                               |
|-----|---|-------------|-------------------------------|
| 37. | For compensation for obstruction a way or a watercourse.                    | Three years | The date of the obstruction.  |
| 38. | For compensation for diverting a watercourse.                               | Three years | The date of the diversion.    |
| 39. | For compensation for trespass upon immovable property.                      | Three years | The date of the trespass.     |
| 40. | For compensation for infringing copyright or any other exclusive privilege. | Three years | The date of the infringement. |
| 41. | To restrain waste.  | Three years | When the waste begins.        |

42. For compensation for injury caused by an injunction wrongfully obtained.

Three years

When the injunction ceases.

**COMMENTS**

Dispossession within twelve years of the filing of suit. Appellant had failed to discharge the burden that he has been dispossessed within the period of 12 years from date of filing the suit is liable to be dismissed on such score alone. [PLJ 2009 SC 356].

43. Under the [Succession Act, 1925, Section 360 or Section 361] to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets.

Three years

The date of the payment or distribution.

44. By a ward who has attained majority, to set aside a transfer of property by his guardian.  
[.....]

Three years

When the ward attains majority.

[.....]

47. By any person bound by an order respecting the possession of immovable property made under the Code of Criminal Procedure, 1898 or by any one claiming under such person to recover the property comprised in such order.

Three years

The date of the final order in the case.

**Part VI--Three years**

48. For specific movable property lost, or acquired by theft, dishonest misappropriation or conversion, or for compensation for wrongfully taking or detaining the same.

Three years

When the person having the right to the possession of the property first learns in whose possession it is.

484. To recover movable property conveyed or bequeathed to trust deposited or pawned, and afterwards bought from the trustee, depository or pawnee for a valuable consideration.

485. To set aside sale of movable property comprised in a Hindu, Muhammadan or Buddhist religious or charitable endowment, made by a manager thereof for a valuable consideration.

49. For other specific movable property, or for compensation for wrongfully taking or injuring or wrongfully detaining the same.

50. For the hire of animals, vehicles, boats or household furniture.

51. For the balance of money advanced in payment of goods to be delivered.

52. For the price of goods sold and delivered, where no fixed period of credit is agreed upon.

53. For the price of goods sold and delivered to be paid for after the expiry of a fixed period of credit.

54. For the price of goods sold and delivered to be paid for by a bill of exchange, no such bill being given.

Three years

When the sale becomes known to the plaintiff.]

Three years

When the sale becomes known to the plaintiff.]

Three years

When the property is wrongfully taken or injured, or when the detainer's possession becomes unlawful.

Three years

When the hire becomes payable.

Three years

When the goods ought to be delivered.

Three years

The date of the delivery of the goods.

Three years

When the period of credit expires.

Three years

When the period of the proposed bill elapses.

64. Under Order XXXVII of the Code of Civil Procedure.
65. For compensation for breach of a promise to do anything at a specified time, or upon the happening of a specified contingency.
66. On a single bond, where a day is specified for payment.
67. On a single bond, where no such day is specified.
68. On a bond subject to a condition.
69. On a bill of exchange or promissory note payable at a fixed time after date.
70. On a bill of exchange payable at sight or after sight, but not at a fixed time.
71. On a bill of exchange accepted payable at a particular place.
72. On a bill or exchange or promissory note payable at a fixed time after sight or after demand.
73. On a bill of exchange or promissory note payable on demand and not accompanied by any writing restraining or postponing the right to sue.
74. On a promissory note or bond payable by instalments.

- Three years      When the debt becomes payable.
- Three years      When the time specified arrives or the contingency happens.
- Three years      The day so specified.
- Three years      The date of executing the bond.
- Three years      When the condition is broken.
- Three years      When the bill or note falls due.
- Three years      When the bill is presented.
- Three years      When the bill is presented at that place.
- Three years      When the fixed time expires.
- Three years      The date of the bill or note.
- Three years      The expiration of the first term of payment as to the part then payable; and for the other parts the expiration of the respective terms of payment.

- 75. On a promissory note or bond payable by instalments, which provides that if default be made in payment of one or more instalments, the whole shall be due.
- 76. On a promissory note given by the maker to a third person to be delivered to the payee after a certain event should happen.
- 77. On a dishonoured foreign bill where protest has been made and notice given.
- 78. By the payee against the drawer of a bill of exchange which has been dishonoured by non-acceptance.
- 79. By the acceptor of an accommodation-bill against the drawer.
- 80. Suit on a bill of exchange, promissory note or bond not herein expressly provided for.
- 81. By a surety against the principal debtor.
- 82. By a surety against a co-surety.
- 83. Upon any other contract to indemnify.
- 84. By an attorney or wakil for his costs of a suit or a particular business, there being no express agreement as to the time when such costs are to be paid.

Three years  
When the default is made unless where the payee or obligee waives the benefit of the provision, and then when fresh default is made in respect of which there is no such waiver.

Three years  
The date of the delivery to the payee.

Three years  
When the notice is given.

Three years  
The date of the refusal to accept.

Three years  
When the acceptor pays the amount of the bill.

Three years  
When the bill, note or bond becomes payable.

Three years  
When the surety pays the creditor.

Three years  
When the surety pays anything in excess of his own share.

Three years  
When the plaintiff is actually indemnified.

Three years  
The date of the termination of the suit or business, or (where the attorney or wakil properly discontinues the suit or business) the date of such discontinuance.

85. For the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties.

Three years

The close of the year in which the last item admitted or proved is entered in the account, such year to be computed as in the account.

86. (a) On a policy of insurance when the sum insured is payable after proof of the death has been given to or received by the insurers.

Three years

[(a) The date of the death of the deceased.

(b) On a policy of insurance when the sum insured is payable after proof of the loss has been given to or received by the insurers.]

(b) the date of the occurrence causing the loss.]

87. By the assured to recover premia paid under a policy voidable at the election of the insurers.

Three years

When the insurers elect to avoid the policy.

88. Against a factor for an account.

Three years

When the account is, during the continuance of the agency, demanded and refused or, where no such demand is made, when the agency terminates.

89. By a principal against his agent for movable property received by the latter and not accounted for.

Three years

When the account is, during the continuance of the agency demanded and refused or, where no such demand is made when the agency terminates.

90. Other suits by principals against agents for neglect or misconduct.

Three years

When the neglect or misconduct becomes known to the plaintiff.

91. To cancel or set aside an instrument not otherwise provided for.

Three years

When the facts entitling the plaintiff to have the instrument cancelled or set aside become known to him.

10. Entries in columns 1 & 3 were substituted for the original entries, by Insurance (Amendment) Act, 1941 (XII of 1941).