

**ORIENTAL INSURANCE CO. LTD. v. M/s TEJPARAS ASSOCIATES &  
EXPORTS PVT. LTD. 2019 SCC  
ONLINE SC 1281**

Supreme Court of India; 2-judge bench, R. Bhanumathi and **A. S. Bopanna** JJ; decided on 03 October 2019

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Section 14 of the Limitation Act applies to set-aside proceedings

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Section 14 of the Limitation Act, 1963 (“Limitation Act”) provides for the exclusion of time of proceeding *bona fide* in court without jurisdiction. Does it apply to an application under Section 34 of the ACA?

Yes, if the Section 34 application was in the first instance filed in time. This is what this 2-judge bench has reiterated following an earlier 3-judge bench decision in *Consolidated Engineering Enterprises v. Principal Secretary, Irrigation Department and others* (2008) 7 SCC 169.

The facts are somewhat one-off and are summarised here for the interested reader. Oriental Insurance had filed within limitation a Section 34 application at Jaipur, but the court there concluded it did not have jurisdiction and sent the matter to the court at Jodhpur. It also fixed a date for parties to appear. But there was a delay of 8 days by Oriental in the re-representation of its application. Since the respondent objected to limitation, Oriental filed an application under Section 14 of the Limitation Act to exclude the time consumed at Jaipur. The Jodhpur court rejected the application and the High Court affirmed that rejection. The Supreme Court was of the view that the Section 14 application was not necessary in the first place (“a knee jerk reaction”) and since the actual issue was delay in re-presenting the application, the correct course was to make an application (under CPC) to the Jaipur court to extend the time fixed by it to appear in court at Jodhpur. The Supreme Court nonetheless made its observations on the Section 14 aspect.

It is interesting to note that the Limitation Act, 1963 is a general law with respect to the limitation of suits and other proceedings. Section 5 is one of the frequently invoked general provisions under which a court can extend

the period of limitation for sufficient cause. But Section 29 excludes the applicability of several provisions of the enactment in a case where a special law prescribes a different period of limitation. For example, Section 34 of the ACA prescribes a limitation of its own (of three months, plus, at the court's discretion, additional thirty days). Several cases have ruled that Section 5 of the Limitation Act does not apply to set aside proceedings under Section 34 of the ACA. Among these is *Union of India v. Popular Construction Co.* (2001) 8 SCC 470 and, following *Popular, Simplex Infrastructure Limited v. Union of India* (2019) 2 SCC 455. But, according to *Consolidated Engineering*, Section 5 is fundamentally different from Section 14, and there is no reason why the benefit of Section 14 should not be attracted to set aside proceedings.