
No Limitation Bar For Perpetual Injunction Decrees; Each Violation A Fresh Cause Of Action: Supreme Court Of India

Authors: *Vasanth Rajasekaran* and *Harshvardhan Korada*

Introduction

In a recent ruling, the Supreme Court of India in ***Bhudev Mallick alias Bhudeb Mallick v. Ranajit Ghoshal*** [2025 INSC 175] examined the enforceability of decrees of permanent injunction and their immunity from limitation under the Limitation Act, 1963. The decision reaffirms that a decree of permanent injunction is not subject to any period of limitation, as each act of disobedience constitutes an independent breach, thereby allowing decree-holders to seek enforcement at any time.

The case, which originated from a title suit filed in 1965, ultimately reached the Supreme Court after the executing Court ordered the arrest and detention of the judgment-debtors for violation of a decree of permanent injunction issued in 1976. The judgment offers a detailed analysis of the procedural aspects of execution under the Code of Civil Procedure, 1908 ("CPC"), as well as the interpretation of principles of limitation concerning injunction-related decrees. In this article, we navigate through the facts and the findings of the Supreme Court.

Brief Facts

The litigation commenced in 1965 when the predecessors of the decree-holders filed a suit for confirmation of possession and a permanent injunction. The suit was decreed in 1976, granting the decree-holders a declaration of title, confirmation of possession, and an injunction restraining the judgment-debtors from interfering with their possession.

Subsequent appeals did not alter the decree's substance, and it became final in 1980. Decades later, in 2017, the decree-holders initiated execution proceedings, alleging fresh violations by the judgment-debtors. The executing Court, upon finding non-compliance, ordered the arrest and detention of the judgment-debtors for 30 days and attachment of their properties. This order was challenged before the Calcutta High Court, which dismissed the revision and upheld the execution proceedings. The matter was then brought to the Supreme Court.

Legal Issues

The Supreme Court was called upon to decide the following key issues:

- (i) Whether a decree of permanent injunction could be enforced after four decades without being time-barred?
- (ii) Whether the arrest and detention of the judgment-debtors were legally justified under the provisions of the CPC?

- (iii) The role of the High Court in scrutinising procedural compliance in execution cases.

Supreme Court's Decision

No Limitation on Permanent Injunction Decrees

The Supreme Court categorically ruled that decrees of permanent injunction are immune from limitation under Article 136 of the Limitation Act, 1963. The proviso to Article 136 explicitly states: "*An application for the enforcement or execution of a decree granting a perpetual injunction shall not be subject to any period of limitation.*"

The Apex Court observed that each breach of an injunction is an independent and actionable wrong, meaning that execution proceedings could be initiated whenever a violation occurs, regardless of the time elapsed since the decree was passed. Citing precedents such as ***Jai Dayal v. Krishan Lal Garg*** [(1996) 11 SCC 588] and ***Shri Benedito Dias v. Armando Fernandes*** [2017 (4) AIR Bom. R 381], the Supreme Court reaffirmed that an injunction decree remains perpetually enforceable.

Procedural Lapses in Execution Proceedings

Despite upholding the validity of the execution petition, the Supreme Court found grave procedural lapses in the executing Court's approach. The detention of the judgment-debtors was found to be in violation of Order XXI Rule 32 CPC, which requires a finding of wilful disobedience before imposing punitive measures.

The Supreme Court marked the following three major lapses in the executing Court's approach:

- (i) Under Order XXI Rule 11-A CPC, an application seeking arrest and detention must be accompanied by an affidavit specifying the grounds for arrest. The executing Court's failure to ensure compliance rendered the order unsustainable.
- (ii) The Apex Court reiterated that imprisonment is a serious deprivation of liberty and should not be ordered mechanically. A finding of willful disobedience is a prerequisite for detention under Order XXI Rule 32 CPC.
- (iii) The Supreme Court also held that the judgment-debtors were not given an adequate opportunity to contest the execution petition, violating principles of procedural fairness.

Consequently, the Supreme Court set aside the order of arrest and detention but allowed the execution proceedings to continue in compliance with due process.

Comment

The Supreme Court has affirmed the perpetual enforceability of injunction decrees while simultaneously reinforcing the importance of procedural safeguards in execution proceedings. By holding that decrees of permanent injunction are immune

from limitation under Article 136 of the Limitation Act, 1963, the Court ensures that decree-holders can seek enforcement whenever a violation occurs, thereby preventing judgment-debtors from escaping compliance merely due to the passage of time.

Contact

For any query, help or assistance, please reach out at info@trinitychambers.in or visit us at www.trinitychambers.in.

Authors



Vasanth Rajasekaran
Founder & Head
vasanth@trinitychambers.in



Harshvardhan Korada
Counsel
harshvardhan@trinitychambers.in