

06.05.2026

All the proceeding conducted through VC.

Present Sh. Saha Dev, Ld. Proxy Counsel for Ld. Counsel Sh. Harish Kumar for plaintiff.

Sh. Ashok Kumar, Ld. Counsel for defendant.

Arguments on the application under Order XIV Rule 5 CPC heard.

The present order shall dispose of an application filed on behalf of the defendant, namely BSES Yamuna Power Ltd., under Order XIV Rule 5 CPC seeking framing of an additional issue on limitation to the effect:

“Whether the suit against Defendant (BSES Yamuna Power Ltd.) is barred by limitation? OPD.”

Brief Background

The plaintiff has instituted the present suit seeking compensation on account of the death of his son due to alleged electrocution on 31.07.2012. Issues in the matter were framed on 15.12.2016, which are as under:

- 1. Whether the plaintiff is entitled to damages as claimed? OPP***
- 2. Relief***

The defendant now seeks framing of an additional issue on limitation, contending that it was impleaded at a later stage on 07.01.2016 and the claim against it is barred under Article 82 of the Limitation Act

1963.

The plaintiff has opposed the application on the ground that the same is belated, misconceived, and intended to delay the proceedings, especially when evidence already stands concluded.

Court observation and findings

It is a settled proposition that under Order XIV Rule 5 CPC, the Court possesses the power to frame additional issues at any stage prior to pronouncement of judgment, if such issues are necessary for determining the real controversy between the parties. However, such power is discretionary and is to be exercised only when the proposed issue is not already covered by the existing issues and is essential for adjudication.

In the present case, the core issue already framed by the Court is: **“Whether the plaintiff is entitled to damages as claimed?”** This issue is comprehensive in nature and necessarily encompasses all aspects required to grant or deny relief, including the question of limitation.

It is settled principle that limitation goes to the root of the maintainability of the claim and directly impacts the entitlement of the plaintiff to seek damages. While adjudicating entitlement, the Court is duty-bound to consider whether the claim is within limitation, even in the absence of a specific issue, as limitation is a mixed question of law and fact arising from the pleadings.

In this regard, reference may be made to the principle laid down by the Hon’ble Supreme Court in *N.V. Srinivasa Murthy v. Mariyamma Appeal Civil 4500 of 2004 decided on 11.07.2005*, wherein it was held that if a plea of limitation arises from the pleadings and evidence, the

Court is competent to decide the same even without a specific issue having been framed.

Similarly, in *Sushil Kumar Mehta v. Gobind Ram Bohra AIR ONLINE 1989 SC 9*, it was observed that a pure question of law affecting jurisdiction or maintainability, including limitation, can be considered by the Court at any stage.

Applying the aforesaid principles, the question of limitation is already embedded within the broader issue of entitlement to damages. While deciding Issue No.1, the Court shall necessarily examine whether the claim against the defendant is within the prescribed period of limitation, particularly in light of the defendant's plea regarding its impleadment and the applicability of Article 82 of the Limitation Act.

Therefore, framing of a separate issue on limitation would be merely repetitive and would not advance the adjudication of the dispute. Further, the evidence in the matter has already been concluded. At such an advanced stage, framing of an additional issue, which is otherwise subsumed in the existing issue, would unnecessarily protract the proceedings without serving any substantive purpose.

In view of the foregoing discussion, the Court finds no merit in the present application. The issue of limitation is already comprehensively covered under Issue No.1 relating to entitlement of the plaintiff to damages, and the same shall be duly considered at the stage of final adjudication.

Accordingly, the application under Order XIV Rule 5 CPC filed by the defendant stands **dismissed**.

Put up for final arguments for 20.07.2026.

Date is given at the request and convenience of the Ld. Counsels
for both parties.

SUSHEEL BALA DAGAR
DISTRICT JUDGE-08
WEST/DELHI/06.05.2026