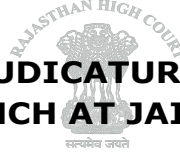




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Revision Petition No. 79/2026

URN: CR / 128U / 2026

1. State of Rajasthan, Through Secretary, Medical and Health Department, Rajasthan State Secretariat, Jaipur, Rajasthan.
2. Chief Medical Officer, Bharatpur, Rajasthan.

----Petitioners

Versus

1. Rambabu, S/o Tikaram, R/o Roopwas, District Bharatpur, Rajasthan.
2. Laxminarayan, S/o Tikaram, R/o Roopwas, District Bharatpur, Rajasthan.
3. Secretary, Public Works Department, Rajasthan State Secretariat, Jaipur.
4. District Collector, Bharatpur, Rajasthan.
5. Executive Engineer, Public Works Department, Bhawan and Path, Rajasthan State Secretariat, Jaipur, Rajasthan.

----Respondents

For Petitioner(s) : Mr. Archit Bohra

For Respondent(s) :

HON'BLE MR. JUSTICE MANEESH SHARMA

Order

REPORTABLE

20/07/2026

1. The present revision petition has been filed by the petitioners, assailing the order dated 02.12.2025 passed by the learned Civil Judge & Judicial Magistrate, Roopwas, in Execution Petition No. 01/2025, whereby the petitioners' application dated 08.10.2025, seeking dismissal of the execution petition as barred by limitation under Article 136 of the Limitation Act, 1963, was rejected.



2. Learned counsel for the petitioners submits that the decree under execution was passed on 07.11.2008, whereas the execution petition came to be instituted only on 09.01.2025, i.e., after a lapse of more than sixteen years. It is further submitted that the execution petition is hopelessly barred by limitation under Article 136 of the Limitation Act, 1963, and that the learned executing court committed a manifest error in holding that limitation would commence only from the alleged breach of the decree. Learned counsel accordingly prays that the impugned order be quashed and set aside.

3. Heard learned counsel for the petitioners and perused the impugned order, the material available on record, as well as Article 136 of the Limitation Act, 1963.

4. The sole objection raised by the petitioners before the executing court is that the decree dated 07.11.2008 has remained unexecuted for more than sixteen years and that the execution petition filed on 09.01.2025 is, therefore, barred by limitation.

5. The executing court rejected the said objection, holding that the decree is one of permanent injunction and that no period of limitation applies to its enforcement, limitation commencing only upon violation of the decree, which is alleged to have occurred on 03.01.2025.

6. At the outset, it would be useful to extract Article 136 of the Limitation Act, 1963, which reads as follows:

136.	<i>For the execution of any decree (other than a decree granting a mandatory injunction) or order of any civil court.</i>	<i>Twelve years</i>	<i>¹[When] the decree or order becomes enforceable or where the decree or any subsequent order directs any payment of money or the delivery of any property to be</i>
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			<i>made at a certain date or at recurring periods, when default in making the payment or delivery in respect of which execution is sought, takes place: <u>Provided that an application for the enforcement or execution of a decree granting a perpetual injunction shall not be subject to any period of limitation.</u></i>
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7. A plain reading of Article 136 of the Limitation Act, 1963, makes it clear that while execution of decrees is ordinarily governed by a period of twelve years, the proviso expressly carves out an exception in respect of execution of a decree granting a perpetual injunction. The legislative intent is explicit that such decrees stand on a different footing from other executable decrees.

8. In the present case, the decree dated 07.11.2008 is admittedly one granting permanent injunction. In view of the express proviso to Article 136, the objection regarding limitation raised by the petitioners cannot be sustained merely on the ground that the execution petition was instituted after more than twelve years.

9. The aforesaid view is further fortified by the judgment of a co-ordinate Bench of this Court at the Principal Seat, Jodhpur, in ***Naurang v. Late Shri Chunnilal & Ors.***¹, decided on 19.08.2025, wherein it was categorically held that the proviso to Article 136 of the Limitation Act carves out an exception in respect of decrees granting perpetual injunction, and that such decrees are executable without being constrained by the twelve-year

¹ S.B. Civil Revision Petition No. 145/2025



limitation prescribed for other decrees. The objection to the maintainability of the execution petition on the ground of limitation was, accordingly, repelled.

9.1 In **Sarath Kakumanu v. Veerappan Arunachalam and Ors.**², the Madras High Court has held:

"15. With regard to the question of limitation, it is held in the judgment reported in 2000 (II) CTC 199 cited supra that when the decree is for prohibitory injunction and mandatory injunction, Article 136 alone has to be applied and not Article 135. This proposition applies to this case also. As per Article 136 of Limitation Act, an application for the enforcement or execution of a decree granting a perpetual injunction shall not be subjected to any period of limitation. As the legal representatives of the deceased Jayalakshmi Ammal, the respondents are entitled to file Execution Petition for enforcing the decree of perpetual prohibitory injunction, when it is violated."

(Emphasis Supplied)

9.2 In **Shyam Narayan & Anr. v Prabhawati Devi & Ors.**³, the Allahabad High Court has held:

"7. A perusal of the decree of trial court shows that it was a composite decree of permanent injunction as well as mandatory injunction. So far as part of the mandatory injunction is concerned, from the Amin's report, it was found that the earlier encroachments alleged in the suit were not there, but a fresh encroachment has been made. Thus, according to the decree holder, fresh encroachment was made in the year 2003. As the decree is for perpetual injunction, as such, in view of proviso to Article 136, it could be executed at any time as and when violation take place. No interference is required by this Court."

(Emphasis Supplied)

9.3 In **Chakradhar Paital (Dead) after him his LRs & Ors. v. Gelhi Bewa (Dead) after him his LRs & Ors.**⁴, the Orissa High Court has held:

"10. The other contention raised by the learned counsel for the petitioner is that the execution case must be held to be barred by limitation under Article 135 of the Limitation Act inasmuch as the decree is sought to be executed in a mandatory way by means of recovery of possession. This contention, to my mind, is wholly fallacious. The decree that is being sought to be executed is a decree for perpetual (prohibitory) injunction. It is being sought to be executed in a

² C.R.P. (NPD) No. 3537 of 2019

³ 2016 Supreme (All) 2332

⁴ 2012 AIR (Ori) 44



manner which sub-rule (5) of Rule 32 of Order 21, C.P.C. permits. Recovery of possession in the instant case would be an act which is required to be done so that the parties would be put in the position which they occupied at the time of passing of the decree that continued till the decree was disobeyed by way of encroachment. Such manner of execution does not convert the decree to be one of mandatory injunction. Irrespective of the manner or mode of execution, the decree of prohibitory injunction does not lose its character as such. As per proviso to Article 136 of the Limitation Act, there is no limitation for execution of a decree of perpetual (prohibitory) injunction. Therefore, the execution case in question cannot be said to be barred by limitation."

(Emphasis Supplied)

10. In view of the foregoing, this Court is of the considered view that the learned executing court has not committed any jurisdictional error in rejecting the petitioners' application. The impugned order is in consonance with the statutory provisions governing execution of decrees for perpetual injunction and does not suffer from any jurisdictional error warranting interference by this Court under Section 115 of the Code of Civil Procedure, 1908.
11. Consequently, this Court finds no merit in the present revision petition. The same is, accordingly, dismissed.
12. All pending application(s), if any, stand disposed of.

(MANEESH SHARMA),J