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Bad Faith Settlement Negotiations and the Law of Limitation

Can Equity Prevent a Party from Pleading Limitation After Inducing Delay?

Introduction

Commercial disputes are frequently preceded by prolonged settlement discussions. Parties often refrain from immediate litigation in the hope that negotiations may preserve commercial relationships, reduce costs, and lead to amicable settlement. Yet a recurring legal problem emerges where one party, after participating in negotiations for months or years, abruptly asserts that the claim has become barred by limitation. The issue becomes particularly controversial where the delay in commencing proceedings was itself substantially induced by the conduct of the party now relying on limitation as a defence.

This raises an important jurisprudential question within common law systems: can a party invoke limitation after its own representations, conduct, or settlement negotiations caused the opposing party to postpone legal action? The question sits at the intersection of limitation law and equitable doctrines such as promissory estoppel, waiver, acquiescence, and unconscionability. It also engages broader concerns relating to good faith in commercial dealings and abuse of legal process.

Common Law Foundations: Equity Against Strict Legal Rights

The equitable foundation of the doctrine may be traced to the decision of the House of Lords in *Hughes v Metropolitan Railway Co*¹ and to Lord Denning's celebrated judgment in *Central London Property Trust Ltd*

¹ (1877) 2 App Cas 439

*v High Trees House Ltd*². The essential equitable principle underlying these authorities is that law should not permit a party to benefit from conduct that would render enforcement of strict legal rights unconscionable. In limitation disputes, the issue therefore becomes whether a defendant who induced delay through negotiations or assurances should later be permitted to defeat the claim on technical limitation grounds.

The Indian and Bangladeshi Position: Negotiation, Limitation, and Equitable Restraint

Bangladeshi courts, owing to their shared common law heritage and substantially similar statutory framework, frequently rely on Indian jurisprudence as persuasive authority in matters involving limitation, arbitration, estoppel, and equitable principles. This comparative reliance becomes particularly significant in disputes involving prolonged settlement negotiations and contractual pre-arbitration procedures.

Indian courts have progressively developed a nuanced approach toward limitation disputes arising out of ongoing negotiations. While maintaining that limitation statutes cannot ordinarily be displaced by mere settlement discussions, Indian jurisprudence recognizes that bona fide negotiations, acknowledgment of liability, and mandatory pre-reference dispute resolution procedures may materially affect when the cause of action truly crystallizes.

A significant development in this regard emerged through *Hari Shankar Singhania v Gaur Hari Singhania*³, where the Supreme Court of India introduced what is often described as the “*breaking point*” theory. The Court held that limitation may not commence while parties remain engaged in genuine settlement efforts because compelling parties to initiate arbitration during active negotiations would undermine the very objective of amicable dispute resolution. According to the Court, the right to invoke arbitration accrues only when negotiations reach a stage where settlement becomes impossible and adversarial proceedings become necessary.

This principle was subsequently examined in *Geo Miller & Company Pvt Ltd v Chairman, Rajasthan Vidyut Utpadan Nigam Ltd* (2020)⁴, where the Supreme Court clarified that mere exchange of correspondence is insufficient to suspend limitation. The Court emphasized that parties seeking exclusion of time spent in negotiations must specifically establish a bona fide negotiation history demonstrating genuine efforts toward settlement. The Court also cautioned that commercial parties cannot indefinitely postpone proceedings merely by continuing communications or reminders.

The Delhi High Court further refined these principles in *M/S Welspun Enterprises Ltd v M/S NCC Ltd* (2022), a case involving prolonged negotiations and a contractual multi-tier dispute resolution mechanism. The Court held that where parties are contractually required to exhaust negotiation or conciliation procedures before arbitration, the right to commence arbitration may arise only after such procedures have failed. Relying on *Hari Shankar Singhania* and *Geo Miller*, the Court recognized that limitation analysis in such cases must account for the commercial reality of ongoing settlement efforts and the parties’ contractual obligation to pursue amicable resolution before initiating formal proceedings.

These authorities carry substantial persuasive value in Bangladesh, particularly in commercial arbitration disputes where contracts increasingly contain mandatory negotiation or escalation clauses. Although Bangladeshi courts continue to reiterate that there can generally be no estoppel against statute, they also recognize doctrines such as promissory estoppel, waiver, acquiescence, and legitimate expectation. Consequently, where a party induces delay through repeated assurances, acknowledgment of liability, or

² [1947] KB 130

³ (2006) 4 SCC 658

⁴ 14 SCC 643

prolonged negotiation tactics, Bangladeshi courts may be inclined to examine whether reliance on limitation would amount to inequitable or unconscionable conduct.

Accordingly, the emerging common law position — reflected both in English equitable principles and modern Indian arbitration jurisprudence — suggests that limitation cannot always be viewed in isolation from the conduct of the parties. While mere negotiations may not suspend limitation, negotiations accompanied by inducement, acknowledgment, or contractual pre-reference procedures may significantly influence when the cause of action truly arises and whether reliance on limitation can equitably be sustained.

Conclusion

In Bangladesh, although direct authority on the issue remains comparatively limited, the courts' reliance upon Indian jurisprudence as persuasive authority creates substantial scope for the development of similar principles. Decisions such as *Hari Shankar Singhania* and *Welspun* provide valuable analytical tools for reconciling statutory limitation with equitable fairness in commercial disputes involving prolonged negotiations and pre-arbitration procedures.

Ultimately, the issue is not simply procedural. It concerns the integrity of commercial dealings and the fundamental equitable principle that law should not permit a party to benefit from conduct that induced another party to delay legal action. As commercial disputes increasingly involve sophisticated multi-tier negotiation mechanisms, the interaction between limitation law and equitable restraint is likely to assume even greater importance within Bangladeshi jurisprudence.

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