(1966) 01 MP CK 0008

In the Madhya Pradesh High Court

Case No : M.C.C. No. 331 of 1965

Beharilal Tiwari APPELLANT

Vs

Conservator of Forests, Eastern Circle, Jabalpur and another RESPONDENT

Date of Decision : 31-01-1966

Acts Referred:
Limitation Act, 1963 — Section 30, 31

Citation : (1968) ILR (MP) 987 : (1966) JLJ 374 : (1966) MPLJ 334

Hon'ble Judges : Shiv Dayal Shrivastava, J;S.P. Bahrgava, J

Bench : Division Bench

Advocate : A.L. Halve, for the Appellant;

Final Decision : Dismissed

Judgement

Shiv Dayal, J.

This is a petition for review from our judgment dated 25 August 1965 in Misc. (First) Appeal No. 28 of 1963. This petition was filed on 2 November 1965. Under Article 124 of the Limitation Act, 1963 (hereinafter called the "new Act"), the period of limitation is 30 days. Thus the petition is barred by time.

Shri Halve contends that inasmuch as the Limitation Act, 1908, (hereinafter called the "old Act"), was in force on the date of the suit, the period of limitation for this review was 90 days under Article 173 of that Act. Learned Counsel relies on Section 31 of the new Act. In our opinion this contention is misconceived.

As the law of limitation is a law of procedure, its operation is retrospective. That law of limitation will govern a suit, appeal or application which is in force on the date on which such suit, appeal or application is instituted. However, Sections 30 and 31 of the new Act deal with cases in which the new Act prescribes a shorter period of limitation or a longer period, respectively, than the period of limitation prescribed under the old Act. Clearly enough, Section 31 is explanatory. If limitation for a suit, appeal or application had already run out prior the date of the commencement of the new Act, then, such expired right would not revive merely because by applying the provisions of the new Act, such suit, appeal or application would be within time.

Section 30 of the new Act, on the other hand, deals with cases where the period of limitation under the new Act is shorter than the period prescribed under the old Act. Under the new Act;, in several cases period of limitation for a suit has been reduced from 6 years to 3 years, from 12 years to 3 years, from 60 years to 12 years and from 60 years to 30 years. Similarly, in the case of appeals the period has been made uniform by reducing it, generally, to 30 days. In the case of applications also, periods have been reduced, This section remedies the obvious hardship which might result in cases where the period of limitation as prescribed under the old Act had not expired on the date of the commencement of the new Act but which would have been barred by time if the new Act was applied to them. This section provides a special period of 5 years (in the case of such suits) and 90 days (in the case of such appeals and applications) from the commencement of the new Act, or the period prescribed under the old Act, whichever period expires earlier. But this section does not apply to any suit, appeal or application, the right to institute which accrued after the commencement of the new Act. It is also patent enough that this section will cease to have any operation at the end of the special period prescribed by it, i.e. in the case of appeals and applications, at the end of 90 days of its commencement. As the new Act came into force on 1 January 1961, Section 30 became obsolete on 31 March 1961 so far as appeals and applications are concerned.

In the present case, as the right to file a review application accrued to the Petitioner on 25 August 1965, Section 30 of the new Act does not apply.

This petition is dismissed as barred by time.

