
(2010) 12 RAJ CK 0075

In the Rajasthan High Court

Case No : Civil Writ Petition No. 16530 of 2010

Bhikam Singh and Others

APPELLANT

Vs

Commissioner and Others

RESPONDENT

Date of Decision : 22-12-2010

Acts Referred:

Limitation Act, 1963 — Section 5
Rajasthan Public Trusts Act, 1959 — Section 22

Citation : (2010) 12 RAJ CK 0075

Hon'ble Judges : Munishwar Nath Bhandari, J

Bench : Single Bench

Judgement

M.N. Bhandari, J.—The order passed by the Commissioner, Devsthan Department dated 08.11.2010 has been challenged by this writ petition.

2. The only ground urged during the course of arguments is that an application u/s 5 of the Limitation Act is not maintainable while appeal is filed u/s 22 of the Rajasthan Public Trust Act. The provisions of Section 22 of the Rajasthan Public Trust Act does not provide application of Section 5 of the Limitation Act for condonation of delay. Accordingly, the Commissioner, Devsthan Department wrongly condoned the delay in filing appeal. Hence, the order under challenge may be set aside. Other than aforesaid, no other argument has been raised.

3. I have considered the submissions made by learned Counsel for Petitioner.

4. Learned Counsel for Petitioner could not show that aforesaid objection was raised either in writing or orally before the Commissioner, Devsthan Department. Reply to the appeal has not been enclosed along with writ petition but shwon to me for perusal during arguments. Therein also, no objection of the nature raised herein was urged before the Commissioner, Devsthan Department. In the light of aforesaid, Petitioner has raised question on application of Section 5 of Limitation Act for the first time before me.

5. I have considered the submissions and find that application u/s 5 of Limitation

Act can be maintained for condonation of delay in filing appeal u/s 22 of Rajasthan Public Trust Act as there is no bar for maintaining application u/s 5 of Limitation Act. Thus, I do not find any merit in the writ petition, accordingly the same is dismissed.

6. Learned Counsel for Petitioner has not questioned the merit of the order on appeal.