

(2023) 10 MP CK 0016
In the Madhya Pradesh High Court
Case No : Writ Petition No. 25204 Of 2023

Shafeeq Ahmad

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 04-10-2023

Acts Referred:

Constitution Of India, 1950 — Article 226

Limitation Act, 1963 — Section 5

Madhya Pradesh Land Revenue Code, 1959 — Section 44, 46, 46(a)(1), 50(1)(c)

Citation : (2023) 10 MP CK 0016

Hon'ble Judges : Anand Pathak, J

Bench : Single Bench

Advocate : Rajeev Shrivastava, M.S.Jadon

Final Decision : Allowed/Disposed Of

Judgement

Anand Pathak, J

1. The present petition is preferred under Article 226 of the Constitution by the petitioner being crestfallen by the order dated 05.01.2023 (Annexure P-1) passed by Collector District Guna whereby revision preferred by the petitioner against the order dated 18.04.2022 passed by SDO Guna whereby application under Section 5 of Limitation Act was not considered by the Collector Guna and dismissed as not maintainable.

2. It is the submission of counsel for the petitioner that meandering through different litigations when petitioner filed an appeal under Section 44 of Madhya Pradesh Land Revenue Code 1959 (hereinafter referred as "Code 1959") alongwith an application under Section 5 of Limitation Act then SDO rejected the application for condonation of delay and therefore, petitioner had the occasion to file revision under Section 50(1)(c) of Code, 1959 but same was rejected by the Collector Guna as not maintainable.

3. It is the submission of counsel for the petitioner that under Section 46 of the

Code 1959 against the rejection of application for limitation, only remedy provided is revision and not appeal. Therefore, he rightly preferred the revision but same has been rejected. The impugned order is illegal.

4. Learned counsel for the respondent/State tried to oppose the prayer but could not make any distinction in respect of submissions so advanced.

5. Heard the counsel for the parties and perused the documents appended thereto.

6. Considering the submission and the legal position that against the rejection of application under Section 5 of Limitation Act, appeal is barred by the effect of Section 46(a)(1) of the Code 1959 and mechanism for revision is provided under Section 50(1)(c) of the Code 1959. Therefore, appropriate remedy is revision not appeal as directed by the Collector.

7. Resultantly, impugned order dated 05.01.2023 passed by Collector District Guna (Annexure P-1) is hereby set-aside and revision preferred by the petitioner is restored to its original number. Collector District Guna is expected to consider the revision in accordance with law at an expeditious note on its own merit.

8. Petition is allowed and disposed of accordingly.