

(1987) 03 KL CK 0064
In the High Court Of Kerala
Case No : M. F. A. 8 of 1984

V.S. Joseph

APPELLANT

Vs

State and another

RESPONDENT

Date of Decision : 31-03-1987

Acts Referred:

Limitation Act, 1963 — Section 10, 11, 12, 13, 14, 14

Citation : (1987) KLJ 646

Hon'ble Judges : V. Sivaraman Nair, J;M. M. Pareedpillay, J

Bench : Division Bench

Advocate : Mathai M. Paikaday, for the Appellant; M. C. John Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

Pareed Pillay, J.—The appeal is against the order of the Forest Tribunal, Kozhikodc in I.A. No. 204 of 1981 in O.A. 372 of 1981. The petitioner filed I. A. 204 of 1981 in O.A. 372 of 1981. The petitioner filed I. A. 204 of the 1981 u/s 5 of the Limitation Act for condoning the delay in filing the O.A. Tribunal dismissed the petition holding that it has no jurisdiction to condone the delay. The only question that arises for consideration is as to whether the Forest Tribunal can condone delay in filing applications filed before it. Section 5 of the Limitation Act provides for extension of prescribed period in appeals or applications before the Court if the applicant satisfied the Court that he had sufficient cause for not preferring the appeal or making the application within the period specified. Counsel for the appellants contends that Section 5 of the Limitation Act can be made applicable to proceedings before the Forest Tribunal as there is no express exclusion of the Limitation Act under Act 26 of 1971. Such a contention is not tenable as Section 5 of the Limitation Act applies only to courts. In Town Municipal, Council, Athani Vs. The Presiding Officer, Labour Courts, Hubli and Others etc., the Supreme Court held as follows:

We are unable to find any provision in the new Limitation Act which would justify

holding these changes in definition were intended to make the Limitation Act applicable to proceedings before bodies other than courts.

In *Nityananda, M. Joshi and Others Vs. Life Insurance Corporation of India and Others*, the Supreme Court observed.

From Sections 4 and 5 of the Limitation Act 1963 it was clear that the Limitation Act deals only with applications to courts. This being the position, even if the power u/s 5 were to be read into a special local law by reason of the provisions of Section 29 of the Limitation Act, that power is exercisable only by courts and not by tribunals or other authorities such as the appellate authority in this case.

In *Commissioner of Agricultural Income Tax v. T. R. I.* (1981 KLT 398) it was held as follows:

Sections 5 and 14 of the Limitation Act can be relied on for extension of time in respect of a proceeding in court and not before a Tribunal or other authority, under any local or special law.

2. Counsel for the appellant relying on *State of Kerala v. Syamala* (1980 KLT 34) contended that Sections 4 to 24 of the Limitation Act, shall, to the extent to which these provisions have not been expressly excluded by a special or local law, apply for the purpose of determining any period of limitation prescribed for any suit, appeal or application by such special or local law. In the above decision the question that arose for consideration was regarding the period of limitation in appeal presented before the High Court u/s 8A of Act 26 of 1971. Section 8A provides for appeal to the High Court against any decision of the Forest Tribunal. The period within which appeal has to be filed is 60 days. The proviso to Section 8A makes it clear that the High Court can admit an appeal preferred after the expiration of the period of 60 days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period. Thus the proviso enables a party to move for condonation of delay in filing the appeal before the High Court. 1980 KLT 34 is not of any assistance to hold that Forest Tribunal can condone delay in filing applications before it. Rule 3 of Kerala Private Forests (Tribunal) Rules, 1972 provides that application u/s 8 shall be presented to the Tribunal within 60 days from 6-8-1981 or from the date of publication of the notification under Sub rule (2) of Rule 2A of the Kerala Private Forest (Vesting and Assignment) Rules. 1974 in respect of the land to which the dispute relates, whichever is later. There is no provision under the Act or Rules to enable the Forest Tribunal to condone the period of limitation if a party was unable to file the application within time. As the Forest Tribunal is not a Civil Court and as it is only a quasi judicial authority all the trappings of a court cannot be made applicable to it. Forest Tribunal being not a court cannot condone delay on the application filed before it u/s 5 of the Limitation Act.

There is no merit in the appeal and hence it is dismissed. No costs.