

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**Civil Revision No.193 of 2025**

**Decided on: 23<sup>rd</sup> June, 2026**

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Jangvir Singh and others

**...Petitioners**

**Versus**

Mohan Lal

**...Respondent**

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*Coram*

**Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge**

*Whether approved for reporting?*<sup>1</sup>

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For the petitioners:

Mr. Sudhir Thakur, Senior Advocate  
with Mr. Karun Negi, Advocate.

For the respondent:

Mr. Pratap Singh Goverdhan, Senior  
Advocate with Mr. Rakesh Thakur,  
Advocate.

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**Jiya Lal Bhardwaj, Judge** *(Oral)*

The petitioners feeling aggrieved by an order dated 23.07.2025, passed by the learned Additional District Judge, Nahan, District Sirmaur, H.P. in **CMA No.600-N/6 of 2023**, titled, ***Jangvir Singh and others vs. Mohan Lal***, have preferred the present petition, whereby their application under Order 9 Rule 4 read with Section 151 of the Code of Civil Procedure (in short 'CPC') for setting aside the order of dismissal of an application

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<sup>1</sup> *Whether reporters of Local Papers may be allowed to see the judgment?*

dated 06.11.2023 has been dismissed.

2. The petitioners who were the defendants before the learned trial Court had filed the appeal against the judgment and decree dated 31.12.2019, passed by the learned Senior Civil Judge, Nahan, District Sirmaur, H.P. in **Civil Suit No.8 of 2015**, titled, ***Mohan Lal vs. Jangvir Singh and others***. Along with the appeal, an application under Section 5 of the Limitation Act for condonation of delay in filing the appeal was filed, which came to be dismissed in default on 11.01.2021.

3. The petitioners thereafter filed an application under Order 9 Rule 4 of CPC, for restoration of application, however, the same came to be dismissed in default on 06.11.2023. Thereafter, the petitioners filed an application for setting aside the dismissal of order dated 06.11.2023, which application was dismissed vide order dated 23.07.2025 holding that the same is not maintainable.

4. The petitioners have assailed the order dated 23.07.2025 passed by the learned Additional District Judge,

Sirmaur, District at Nahan, H.P., whereby their application under Order 9 Rule 4 CPC read with Section 151 CPC has been rejected on the grounds that the learned Court had wrongly decided the issue that the application is not maintainable.

5. I have heard the learned counsel for the parties and also gone through the record carefully.

6. Without going into the merits of the order, which is under challenge, it is worth to note that when the appeal was instituted by the petitioners, against the judgment passed by the learned trial Court, in an application moved under Section 5 of the Limitation Act for condonation of delay, it was specifically mentioned that the copy of the judgment was applied on 04.01.2020 and the same was supplied on 20.02.2020. The appeal was to be filed on 15.03.2020. However, due to the spread of Coronavirus (COVID-19) pandemic and lock-down in the country and closing of the Courts working, there was a delay of 179 days in filing the appeal. When the order was passed by the learned Additional District Judge, Sirmaur, District at Nahan,

H.P. on 11.01.2021, there was way of spread of Corona Virus and the parties and the counsel were not appearing in the Courts due to the fear of Corona Virus.

7. The Hon'ble Supreme Court, taking note of the surge in COVID-19 cases, had taken Suo Motu cognizance of the matter and passed an order on 10.01.2022 in Miscellaneous Application No.21 of 2022 in Suo Motu Writ Petition (C) No.3 of 2020 in Re: Cognizance for extension of limitation and passed an order, that where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event of actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply. The relevant para of the order reads as under:-

*"5. Taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A. No. 21*

of 2022 with the following directions:

*"I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.*

*II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.*

*III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.*

*IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.*

*V. As prayed for by learned Senior Counsel, M.A. No. 29 of 2022 is dismissed as withdrawn."*

8. Since the Hon'ble Supreme Court had excluded the period w.e.f. 15.03.2020 and had extended the period of limitation for instituting proceedings, including appeals, the

appeal filed by the petitioner was within limitation and the Court ought to have decided the appeal rather than deciding the application and dismissing the same in default. However, when the petitioners subsequently filed an application under Order 9 Rule 4, for recalling the order dated 11.01.2021, the said application came to be dismissed on 06.11.2023.

9. The matter did not rest here, the petitioners again filed an application for recalling the order of dismissal dated 06.11.2023, which application again came to be dismissed on 23.07.2025.

10. Once, the Hon'ble Supreme Court had already passed an order on 10.01.2022 to exclude the period from 15.03.2020 till 28.02.2022 in filing the petitions, appeals etc. and the appeal was already filed by the petitioners before 28.02.2022, the Court below ought to have considered the appeal on merits rather than adjudicating on the order, whereby an application for condonation of delay in filing the appeal was dismissed in default for non-prosecution and

thereafter dismissing the applications for setting aside the order. The application filed by the petitioners for condonation of delay in filing the appeal had been rendered infructuous in view of the order dated 10.01.2022 passed by the Hon'ble Supreme Court and thus, the subsequent orders passed to set aside the dismissal order of applications have no bearing.

11. Learned senior counsel for the petitioners vehemently argued that since there is no fault on the part of the petitioners and further no prejudice is going to be caused to the respondent, in case, the appeal is heard and decided on merit and the impugned order may be quashed and set aside.

12. No doubt, the order under challenge passed by the Court below is not sustainable in view of the law laid down by the Hon'ble Supreme Court, however, since the petitioners were also at fault in not apprising the Court about the order passed by the Hon'ble Supreme Court and the respondent in whose favour decree was passed on

31.12.2019 has been unnecessarily dragged before the Court to defend the litigation, the petition is allowed, subject to payment of costs of Rs.10,000/- to be paid to the respondent.

13. Consequently, the present petition is allowed and the impugned order dated 23.07.2025 passed by the learned Additional District Judge, Sirmaur, District at Nahan, H.P. in **CMA No.600-N/6 of 2023**, titled, ***Jangvir Singh and others vs. Mohan Lal***, is quashed and set aside, subject to the payment of costs of Rs.10,000/- to be paid to the respondent through his counsel on or before 27.07.2026.

14. The petition is accordingly disposed of. Pending application(s), if any, shall also stand disposed of.

15. The parties are directed to appear either in person or through their learned Counsel before the learned Court below on **27.07.2026**.

**23<sup>rd</sup> June, 2026**

*(ankit)*

**( Jiya Lal Bhardwaj )  
Judge**