

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH**  
**AT SRINAGAR**

CM 2155/2025 in  
RFA 28/2025

**UNION TERRITORY OF J AND K AND ORS. ...Petitioner/Appellant(s)**  
**(IRRIGATION AND FLOOD CONTROL / PHE)**

Through: Mr. Jehangir Ahmad Dar, GA.

Vs.

**M/S ALFA CONSTRUCTIONS THROUGH ITS GROUP ...Respondent(s)**  
**LEADER ALTAF HUSSAIN WANI**

Through:

**CORAM:**

**HON'BLE MR JUSTICE RAHUL BHARTI, JUDGE**

**ORDER**  
**22.04.2025**

1. The Court of Principal District Judge, Pulwama in a civil suit on its file No. 145/2018 instituted by plaintiff-M/s Alfa Constructions came to decree the suit for recovery of Rs. 5,01,201/- along with interest but without specifying the rate of interest.
2. The decree came to be passed against six defendants and they being the (1) State of J&K through Commissioner-Secretary I&FC and PHE, Civil Secretariat Srinagar; (2) Chief Engineer PHE Department Kashmir Srinagar; (3) SE Hydraulic Division Pulwama/Shopian, HQ Shopian; (4) Executive Engineer PHE Division Pulwama; (5) Assistant Executive

Engineer PHE Sub Division Pulwama; & (6) Executive Engineer PHE Division Shopian.

3. The institution of the suit was on 13.03.2018 and getting decreed vide judgment dated 17.02.2023.
4. In the civil suit, the defendants had come to cause their appearance and filed a written statement and thereafter absented themselves at their own risk and cost.
5. In para 3 of its judgment, the fact about appearance of the defendants in the civil suit and filing of the written statement is expressly referred by the trial court of the Principal District Judge, Pulwama.
6. The issues came to be framed in the civil suit in which the plaintiff came to lead his evidence and was able to convince the trial court about the basis of its claim for seeking recovery of Rs. 5,01,201/-.
7. The decreeing of the civil suit for money claim by the trial court remained a matter of least interest to the defendants, particularly when there were six defendants in the civil suit and any one of them could have taken initiative to stay alert and alive to the fact that there was ongoing civil suit for money recovery in the court of Principal District Judge, Pulwama which should not be allowed to go unattended except at the risk and cost of earning an adverse judgment against the public

exchequer which all the defendants were supposed to guard without any fail.

8. The defendants had caused appearance in the suit and filed written statement through their standing counsel meaning thereby the responsibility was very much shared one between the defendants and their counsel.

9. The very fact that the suit was allowed to proceed *ex parte* and get decreed *ex-parte* is a statement on the conduct not only of the officials of the time who were incumbents of the official position but also of the then government counsel representing the defendants.

10. It appears that when the plaintiff/decreed holder came forward to put the decree in execution it occurred to Mr. Nisar Dar presently posted as Executive Engineer PHE Division Pulwama to feel concerned and rush forward with a time barred civil first appeal instituted on 15.04.2025 which is afflicted by a delay of 698 days and therefore is accompanied with an application for condonation of delay CM No. 2155/2025.

11. A perusal of the said application CM No. 2155/2025 for seeking condonation of delay would show that the tone and tenor of the application is as if the condonation of delay would come in favour of the applicants as a matter of right just by

making a conjectured averments without any supporting documents and expecting none else than the High Court of Jammu and Kashmir and Ladakh to follow the dotted lines and come forward with the condonation of delay in favour of the applicants so as to give cover up to the acts of omission and commission on the part of the defendants who at the relevant point of time failed to act with due negligence and to stay alive to the fact that there is a civil suit bearing a money claim against them which needed to be contested with all seriousness at the disposal of the defendants.

12. When pointed out by this Court that on the basis of which documents, the averments made in the application for condonation of delay are being sought to be substantiated, Mr. Jehangir Ahmad Dar-learned Government Advocate comes forward with a reply that he would bring those documents next time, as if the court acts in instalments in adjudication of matters at the sweet will of the litigant, and/or the counsel representing. Whosoever comes up with a cause in a court of law is supposed to come up fully equipped with facts and documents for the sake of engaging the court of law and not as a matter of casual play as the present condonation of delay application is.

13. The condonation of delay application has been filed by the Executive Engineer JS PHE Division Pulwama-Mr. Nisar Ahmad Dar, who does not even have the facts to plead in the application that at the time of passing of the judgment and decree dated 17.02.2023 who was the Commissioner Cum Secretary I&FC and PHE, Government of J&K and his successors; Chief Engineer PHE Department Kashmir and his successors; SE Hydraulic Division Pulwama/Shopian and his successors; Executive Engineer PHE Division Pulwama and his successors; Assistant Executive Engineer PHE Sub Division Pulwama and lastly the Executive Engineer PHE Division Shopian and his successors, and still it is expected from the High Court to take his words as gospel words.

14. Mr. Nisar Ahmad Dar-Executive Engineer Jal Shakti PHE Division Pulwama expects the matter of condonation of delay in legal matter as if to be granted on the asking.

15. Application is thus held to be frivolous and misconceived which is *dismissed* in limine.

16. Copy of this order be sent to the Executing Court of the Principal District Judge, Pulwama for notice to be taken on record of the pending execution proceedings.

(RAHUL BHARTI)  
JUDGE

**SRINAGAR**  
**22.04.2025**  
*Bisma*