

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

CM(M) No.186/2026

Reserved on: 07.09.2026
Pronounced on: 11.09.2026
Uploaded on: 14.09.2026
Whether the operative part or
full judgment is pronounced: **Full**

J&K Cooperative Housing Corporation Ltd.
(Through its Managing Director Virinder
Sing, age 54 years, S/o Charanjeet Singh,
having its Registered Office at 243, New
Plot, Jammu.

....Petitioner(s)/Appellant(s)

Through :- Mr. Jasbir Singh Jasrotia, Advocate

V/s

Gunwant Singh, S/o Late Khajur Singl
R/o Major Raghunath Singh Marg,
Sidhra Jammu.

....Respondent(s)

Through :- None

Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

JUDGMENT

01. The petitioner, by way of the instant petition preferred under Article 227 of the Constitution of India, seeks quashing of the order dated 07.08.2026 passed by the learned Special Mobile Magistrate (Electricity), Jammu, whereby the applications filed by the petitioner seeking condonation of delay and setting aside of the ex parte proceedings initiated against it on 15.03.2022 came to be dismissed.

02. Learned counsel appearing for the petitioner submits that the petitioner had engaged Advocate Mustafa Bhatti to contest the proceedings before the learned trial Court and that the said counsel had filed his Vakalatnama on behalf of the petitioner, namely, J&K Cooperative Housing Corporation Ltd., on 23.03.2021. It is contended that, on account of a lack of communication and effective coordination

with the said counsel, the written statement could not be filed within the prescribed period, resulting in the closure of the petitioner's right to file the written statement vide order dated 20.09.2021. Subsequently, on 15.03.2022, the learned trial Court proceeded ex parte against the petitioner.

03. It is the specific case of the petitioner that the circumstances leading to its non-appearance and the delay in approaching the Court were duly explained in the applications filed before the learned trial Court. The petitioner stated that, on 10.12.2024, while reviewing the pending litigation during a meeting concerning the status of various cases, it was noticed that no record pertaining to the instant proceedings was available in the relevant file. Thereafter, the concerned counsel was contacted, who, upon being apprised of the matter, expressed ignorance regarding the proceedings.

04. Upon further verification, the petitioner, for the first time, came to know on 19.12.2024 about the closure of its right to file the written statement and the subsequent initiation of ex parte proceedings against it. Thereafter, the petitioner claims to have acted with due promptitude by applying for certified copies of the order dated 15.03.2022, which were received on 31.12.2024. Subsequently, on 18.01.2025, the petitioner filed applications seeking condonation of delay and setting aside of the ex parte proceedings under Order IX Rule 7 of the Code of Civil Procedure. However, the learned trial Court, without appreciating the circumstances pleaded by the petitioner, dismissed both the applications vide order dated 07.08.2026, which order is assailed in the present petition.

05. Learned counsel for the petitioner further submits that the learned trial Court failed to appreciate the settled principle of law that Courts are required to advance substantial justice rather than defeat the same on account of procedural hyper-

technicalities. It is contended that refusal to permit the petitioner to participate in the proceedings would result in serious prejudice and occasion a miscarriage of justice. It is further argued that the learned trial Court itself noticed that no specific period of limitation is prescribed for an application under Order IX Rule 7 CPC prior to the pronouncement of the final judgment. Nevertheless, according to learned counsel, the Court proceeded to reject the application without properly appreciating the explanation furnished by the petitioner for the delay.

06. Learned counsel submits that the conduct of the petitioner was bona fide, particularly in view of the circumstances in which it acquired knowledge of the proceedings, the nature and value of the property involved, and the prejudice that would be caused to the petitioner if the impugned order is permitted to stand. On these grounds, learned counsel seeks interference by this Court in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India.

07. I have considered the submissions made by learned counsel for the petitioner and have also perused the record, including the order impugned herein, passed by the learned trial Court.

08. A perusal of the impugned order reveals that the learned trial Court was conscious of the fact that no specific period of limitation is prescribed for filing an application under Order IX Rule 7 CPC before the conclusion of the proceedings. However, the absence of a prescribed period of limitation does not absolve a party seeking recall of ex parte proceedings from demonstrating sufficient and cogent cause for its absence and explaining the delay in approaching the Court. In the present case, the record indicates that Advocate Mustafa Bhatti had entered appearance on behalf of the petitioner by filing a Vakalatnama on 23.03.2021. Despite the same, the written statement was not filed on the dates fixed for the said

purpose, i.e, 22.04.2021, 17.05.2021, 28.06.2021, 28.02.2021 and 14.08.2021. Ultimately, on 20.09.2021, the right of the defendant/petitioner to file the written statement was closed in the presence of the concerned counsel.

09. The record further reveals that thereafter, the counsel appearing on behalf of the petitioner participated in the proceedings on subsequent dates, but remained absent on 26.11.2021, 11.12.2021, 29.12.2021, 29.01.2022 and 26.02.2022. Ultimately, on 15.03.2022, the learned trial Court proceeded ex parte against the petitioner. Thus, the material available on record demonstrates that the petitioner remained inactive for a considerable period and failed to take effective steps for defending the proceedings.

10. The application seeking setting aside of the ex parte proceedings was filed on 18.01.2025, i.e., after a lapse of almost three years from the date on which the ex parte proceedings were initiated. Merely because no specific period of limitation has been prescribed for an application under Order IX Rule 7 CPC, it cannot be construed to mean that a party is entitled to approach the Court at any time of its choice without satisfactorily explaining the prolonged delay and its continued absence from the proceedings. The applicant is required to establish sufficient cause and bona fide conduct warranting the exercise of judicial discretion in its favour.

11. The learned trial Court, upon consideration of the entire record, has recorded a categorical finding regarding the conduct of the petitioner, particularly its failure to file the written statement despite repeated opportunities and its subsequent failure to diligently participate in the proceedings. The explanation sought to be furnished by the petitioner by attributing the lapse to the conduct of its counsel has not found favour with the learned trial Court.

12. This Court, in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India, does not ordinarily interfere with a discretionary order of a subordinate Court unless the order suffers from patent illegality, jurisdictional error, perversity, or a manifest failure to exercise jurisdiction vested in the Court. Having considered the impugned order in the aforesaid backdrop, this Court finds no perversity, illegality, or jurisdictional infirmity in the findings recorded by the learned trial Court warranting interference under Article 227 of the Constitution of India. The findings recorded by the learned trial Court are based upon the material available on record and cannot be said to be either arbitrary or perverse.

13. The Hon'ble Supreme Court in '**Garment Craft (S) v. Prakash Chand Goel (S)**', 2022 INSC 37, while explaining the scope of supervisory jurisdiction under Article 227 of the Constitution of India, held as under:

"15. The High Court exercising supervisory jurisdiction does not act as a court of first appeal to reappreciate, reweigh the evidence or facts upon which the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported. The High Court is not to substitute its own decision on facts and conclusion, for that of the inferior court or tribunal. The jurisdiction exercised is in the nature of correctional jurisdiction to set right grave dereliction of duty or flagrant abuse violation of fundamental principles of law or justice. The power under [Article 227](#) is exercised sparingly in appropriate cases, like when there is no evidence at all to justify, or the finding is so perverse that no reasonable person can possibly come to such a conclusion that the court or tribunal has come to. It is axiomatic that such discretionary relief must be exercised to ensure there is no miscarriage of justice.

16. Explaining the scope of jurisdiction under [Article 227](#), this Court in **Estralla Rubber v. Dass Estate (P) Ltd.** (2001) 8 SCC 97 has observed:-

“6. The scope and ambit of exercise of power and jurisdiction by a High Court under [Article 227](#) of the Constitution of India is examined and explained in a number of decisions of this Court. The exercise of power under this article involves a duty on the High Court to keep inferior courts and tribunals within the bounds of their authority and to see that they do the duty expected or required of them in a legal manner. The High Court is not vested with any unlimited prerogative to correct all kinds of hardship or wrong decisions made within the limits of the jurisdiction of the subordinate courts or tribunals. Exercise of this power and interfering with the orders of the courts or tribunals is restricted to cases of serious dereliction of duty and flagrant violation of fundamental principles of law or justice, where if the High Court does not interfere, a grave injustice remains uncorrected. It is also well settled that the High Court while acting under this article cannot exercise its power as an appellate court or substitute its own judgment in place of that of the subordinate court to correct an error, which is not apparent on the face of the record. The High Court can set aside or ignore the findings of facts of an inferior court or tribunal, if there is no evidence at all to justify or the finding is so perverse, that no reasonable person can possibly come to such a conclusion, which the court or tribunal has come to.”

14. Tested on the touchstone of the aforesaid principles, this Court finds no patent illegality, perversity, jurisdictional error or manifest failure of justice in the order passed by the learned trial Court. The conclusions recorded therein are founded upon the chronology of events and the material available on record. Merely because another view may possibly be taken on the explanation offered by the petitioner would not justify interference in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

15. The petitioner has, therefore, failed to make out any case warranting interference with the impugned order dated 07.08.2026. The present petition is accordingly found to be devoid of merit and is dismissed along with connected application(s).

(Wasim Sadiq Nargal)
Judge

Jammu:
11.09.2026
Shammi

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No

