

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

LPA No. 103/2026.

CM No. 3238/2026

Rehana Bano

... Appellant(s)

Through: Mr. P. S. Ahmad, Advocate.

Vs.

UT of J&K & Ors.

...Respondent(s)

Through: Mr. Mohsin Qadri, Sr. AAG with
 Ms. Maha Majeed Assisting counsel

CORAM:

HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER
01.06.2026

1. Writ petition bearing WP(C) No.2149/2020, preferred by the appellant, was dismissed for non-prosecution in terms of order dated 30th August, 2025.
2. Thereafter the appellant filed an application bearing CM No.7100/2025, seeking restoration of the writ petition along with an application seeking condonation of delay in filing the restoration application bearing CM No. 7099/2025.
3. In terms of order dated 24th November, 2025, learned Single Judge allowed both applications and directed restoration of writ petition subject to payment of costs of Rs.1,000/- to be deposited in the Advocates Welfare fund within a period of ten days from 24th November, 2025. However, appellant did not deposit the costs within the period stipulated in the order dated 24th November, 2025.

4. The Registry in its report dated 12th February, 2026, brought to the notice of the learned Single Judge that the appellant did not deposit the costs, as such, learned Single Judge in terms of order dated 27th February, 2026, directed that the writ petition shall continue to remain in dismissal state for non-deposit of costs of Rs.1000/- by the appellant/petitioner.
5. Thereafter, appellant laid another motion bearing CM No.1362/2026, for restoration of WP(C) No. 2149/2020, to its original number and allowing the petitioner to deposit costs of Rs.1,000/- in the Advocates Welfare Fund. The cause projected for not depositing the costs within the period prescribed in terms of order 24th November, 2025 was that the learned counsel representing the appellant was seriously ill and incapacitated right from 20th December, 2025, having suffered a serious tear injury in his right leg and hemorrhage in right eye. The appellant, in support of the averments made in the application, appended an affidavit duly sworn by learned counsel representing the appellant.
6. The learned Single Judge in terms of order dated 25th March, 2026, dismissed the application of appellant with an observation that the Court was not convinced with the reasons cited by the petitioner in the application seeking recall of the order dated 27th February, 2026.
7. The appellant has preferred the present intra-court appeal against the order dated February 27, 2026, primarily on the ground that the learned Single Judge adopted a hyper-technical approach and took an overly harsh view regarding the reasons provided by the appellant

for failing to deposit the costs within the prescribed period.

8. Notice.

9. Ms. Maha Majid, Assisting counsel, appearing vice Mr. Mohsin Qadri, Sr. AAG waives notice on behalf of respondents.

10. Heard learned counsel appearing for the parties.

11. We have examined the record. In the application, the appellant specifically pleaded that the costs could not be deposited within the stipulated time because her counsel had suffered a serious tear injury to his right leg and a hemorrhage in right eye. Consequently, he was virtually incapacitated, preventing the timely deposit of the costs. This application was duly supported by an affidavit sworn by the appellant's counsel. Although the appellant did not append the counsel's medical records to the initial application (CM No. 1362/2026), the relevant medical records concerning his ailment have now been appended to this appeal.

12. Even though counsel's injury arose after the deadline fixed by the order dated November 24, 2025, the learned Single Judge should have shown leniency. Granting extra time to deposit the costs, coupled with a direction to pay further costs, would have better served the salutary purpose of resolving the *lis* on its merits rather than dismissing it in default. Moreover, the affidavit sworn by the appellant's Advocate regarding his medical condition should not have been summarily discounted. Because the learned Single Judge took a hyper-technical view, we set aside the impugned order and allow the appellant's application. The appellant is directed to deposit

a further cost of Rs. 1,000/- alongside the original Rs. 1,000/- previously imposed, within one month from today. The Registry is directed to list the writ petition thereafter.

13. It is made clear that in the event costs are not deposited, the writ petition shall continue to remain in the state of dismissal.

14. ***Disposed of*** along with connected CM(s).

(SANJAY PARIHAR)
JUDGE

(RAJNESH OSWAL)
JUDGE

SRINAGAR:
01.06.2026
“Ab. Rashid”

