

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

Date of Pronouncement: 17.02.2026

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WP(C) No.1327/2024

GHULAM MOHAMMAD BEIGH ...Petitioner/Appellant(s)

Through: Mr. Shabir Ahmad Budoo, Advocate with
Mr. Suhail Ahmad Dar, Advocate.

Vs.

UNION TERRITORY OF J&K AND ORS. ...Respondent(s)

Through: Mr. Lone Altaf, Advocate for private respondents 3 to 9.

CORAM:

HON'BLE MR JUSTICE JAVED IQBAL WANI, JUDGE

ORDER (ORAL)

17.02.2026

Facts;

1. Ownership of land measuring 04 kanals falling under Survey No.395 min in Estate Sonamarg, Tehsil Kangan, District Ganderbal, passed unto the petitioner herein pursuant to the attestation of mutation No.602 dated 05.09.1986 and mutation No.605 dated 02.12.1986 respectively, attested by respondent 10 herein, under Sections 4 and 8 of the Jammu and Kashmir Agrarian Reforms Act 1976 (for short 'the Act of 1976) and feeling aggrieved of the said mutations, private respondents 3 to 9 herein claiming to be the successors of the original owners of the said land namely Abdul Ahad Raina, Ghulam Mohi-ud-din Raina and Ghulam Mohammad Raina, preferred an appeal before Joint Agrarian Reforms Commissioner respondent 2 herein, on 03.01.2022, accompanied with an application for condonation of delay seeking condonation of delay in preferring the said appeal, wherein the said condonation of delay application came to be allowed on 15.12.2022 by the

respondent 2, aggrieved of the which order dated 15.12.2022, the petitioner herein preferred WP(C) No.05/2023 before this Court, which WP(C) however, came to be withdrawn on 20.01.2023 owing to the disposal of the main appeal in the meantime by respondent 2 on 10.01.2023, whereafter the petitioner herein preferred WP(C) No.69/2023 challenging both the orders being order dated 15.12.2022 passed in the condonation of delay application as also the order dated 10.01.2023 passed in the main appeal and the said WP(C) 69/2023 came to be disposed of on 10.07.2023 by this Court directing the respondent 2 to consider and decide the application for condonation of delay afresh on merits by passing a speaking/ reasoned order and to make an endeavor to dispose of the matter within a period of two months positively, whereafter the respondent 2 on 10.10.2023 decided the condonation of delay application and allowed the same, aggrieved whereof the petitioner herein preferred WP(C) No.2811/2023 before this Court, which petition however, came to be dismissed on 03.11.2023, upholding the said order dated 10.10.2023 passed by respondent 2 and aggrieved of the dismissal of the said WP(C) 2811/2023, the petitioner herein preferred LPA No. 248/2023, which LPA came to be disposed of on 23.10.2024 on the premise that since the petitioner herein (being the appellant before the LPA Bench) had challenged the order passed in the main appeal in a separate writ petition i.e. WP(C) No.1327/2024 (being present petition) and that as such, the appellant/petitioner herein shall be free to raise the question with regard to the legality of the order of condonation of delay dated 10.10.2023 passed by respondent 2 while providing further that the order of dismissal of the writ petition of the petitioner dated 03.11.2023 passed in WP(C) No.2811/2023 of 2023 shall not come in the way of appellant/petitioner herein in assailing the

said order dated 10.10.2023 on the ground that the respondent 2 herein has erroneously condoned the delay and the petitioner herein whereafter in view of the aforesaid liberty granted by LPA Bench amended the said WP(C) No.1327/2024 incorporating therein challenge to the condonation of delay order dated 10.10.2023 passed by respondent 2 herein and consequently amended the petition being the present one.

2. The petitioner herein has challenged orders dated 10.10.2023 and 30.11.2024 being the order of condonation of delay and the order of disposal of the appeal respectively passed by respondent 2 herein in the instant petition, *inter alia*, on the grounds that the respondent 2 entertained the time barred appeal and condoned the delay without any lawful justification after a considerable period of time of 34 years and that the impugned orders are bad in law having been passed without assigning any reasons in a novel, unknown mode having directed the respondents 3 to 9 herein during the course of the proceedings of the case to file a supplementary condonation of delay application in order to bestow favour upon them and that the law on the subject of condonation of delay was not considered by respondent 2 herein while condoning the delay of 34 years without there being a sufficient cause as the ex-land owners have had never ever thrown challenge to the mutations in question during their lifetime and that the land in question attracted the application of the Act of 1976 and mutations were rightly attested in favour of the petitioner herein.

3. **Objections** to the petition have been filed by the private respondents 3 to 9 wherein the petition is being opposed on the premise that the writ petition is not maintainable as the petitioner has approached the Court with unclean hands and that the petition involves determination of disputed questions of

fact and title, which is beyond the purview and scope of jurisdiction of this Court under Articles 226 and 227 of the Constitution and that the mutations in question had been rightly set-aside by the respondent 2 as there was no title/entry made in the revenue records establishing the relationship of the landlord and tenant between the answering respondents and the petitioner herein and that, in fact, the respondents herein had been in continuous personal cultivation and occupation of the land in question even recorded as such in Khasra Girdawari and Jamabandi and that the mutations had been attested in violation of Standing Order 23-A and that the answering respondents had come to know about attestation of said mutations only after the petitioner herein had filed objections to the claim lodged by the answering respondents for release of compensation of the land in question which meantime had been acquired for public purpose by the official respondents and that the mutations in question had been attested fraudulently without any competence by attesting officer.

Heard counsel for the parties and perused the record.

4. According to the counsel for the petitioner, the respondent 2 herein has decided the condonation of delay application in terms of impugned order dated 10.10.2023 without there being either sufficient cause or plausible reason expressed therein in the application for condonation of delay application either initially filed by respondents 3 to 9 herein as also subsequently upon filing of supplementary application. Counsel for the petitioner would insist that respondent 2 herein could not have condoned the period of delay of more than 30 years in absence of sufficient reasons and yet decided the validity of the mutations under challenge under the guise that there has been a strong case on merits involved in the appeal maintained by

respondents 3 to 9 herein which could not have been done in view of law laid down by the Apex Court in cases titled as “**Pathapati Subba Reddy and Ors., Vs. Special Deputy Collector**” reported in **2024 (12) SCC 336**, and “**Shivamma Vs. Karnataka Housing board and Ors.**”, reported in **2025 SCC Online SC 1969**.

5. On the contrary the counsel for the respondents 3 to 9 herein while defending the impugned orders would reiterate that the said orders came to be passed validly and lawfully by the respondent 2, and that owing to the cast iron strength case of the respondents 3 to 9 herein, setup in the appeal against the mutations in question, the respondent 2 herein, rightly condoned the delay after being convinced with the explanation offered therein the application for condonation of delay and the supplementary application subsequently filed thereto.

6. Before proceeding to advert to the rival submissions of the counsel for the parties, it is significant to refer hereunder to the order of Division Bench dated 23.10.2024 passed in LPA No. 248/2023 *supra* being relevant to the controversy ;

1. This intra-court appeal is directed against the Judgement of the learned Single Judge of this Court dated 03.11.2023 passed in WP(C) No. 2811/2023 titled "Ghulam Mohammad Beigh vs. Union Territory of Jammu & Kashmir and Others" whereby the writ court has upheld the order of Additional Deputy Commissioner, (Joint Agrarian Reforms Commissioner) Ganderbal, condoning the delay in appeal under Section 19 of the Jammu & Kashmir Agrarian Reforms Act 1976.
2. It is submitted that during the pendency of this appeal, the main appeal has been decided by the Additional Deputy Commissioner, Ganderbal, finally vide its order dated 30.04.2024 which has been assailed by the appellant before this Court in WP(C) No. 1327/2024.
3. Vide order dated 25.03.2024 passed in this appeal it was provided that any order that may be passed by the concerned appellate authority shall remain subject to the outcome of the present appeal and status quo on spot shall be maintained. Before us learned counsel for the parties fairly submitted that the controversy raised in this appeal can be settled by

reserving a liberty to the appellant to raise the issue of condonation of delay ordered by the Additional Deputy Commissioner, Ganderbal, either in the writ petition which has been disposed of or by filing a separate writ petition notwithstanding the Judgement passed by the learned Single Judge dated 03.11.2023.

4. Having regard to the submissions of the learned counsel for the parties and with their consent, this appeal is disposed of along with all connected CMs by providing as under:
 - i. That the appellant who has already challenged the final order passed in appeal by the Additional Deputy Commissioner, Ganderbal, shall be free to raise the question with regard to the legality of the order of the Additional Deputy Commissioner, Ganderbal, condoning the delay in filing the appeal by the respondents.
 - ii. This liberty shall be available to the appellants notwithstanding anything to the contrary contained in the Judgment passed by the Single Bench. To make it more clear and unequivocal, the judgment passed by the learned Single Judge shall not come in the way of the appellant to assail the impugned order on the ground that the Additional Deputy Commissioner has erroneously condoned the delay.

As is manifest from above the Division Bench in essence left it open for the petitioner herein to agitate the matter of condonation of delay before this Court in the already pending petition being the present WP(C) No.1327/2024 filed by the petitioner herein against the order of disposal of the appeal dated 30.04.2024 passed by respondent 2 herein and in clear and unequivocal terms provided that the dismissal of the petition filed by the petitioner herein against the condonation of delay order 10.10.2023 shall not come in his way in assailing the said order of condonation of delay in the said WP(C) No.1327/2024. Therefore, in this view of the matter, it is deemed appropriate to advert to the order dated 10.10.2023 passed in condonation of delay application passed by respondent 2 herein in the first instance.

7. Before proceeding further in the matter, it would be advantageous and appropriate to refer hereunder the judgement of the Apex Court passed in case

titled as “**Pathapati Subba Reddy and Ors., Vs. Special Deputy Collector,**

wherein following has been held: -

28. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

28.1. Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;

28.2. A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;

28.3. The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;

28.4. In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;

28.5. Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

28.6. Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;

28.7. Merits of the case are not required to be considered in condoning the delay: and

28.8. Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.

A further reference to the judgement of the Apex Court passed in case titled as “**Shivamma Vs. Karnataka Housing board and Ors.**”, would also be advantageous herein, wherein at paras 234, 235, 258 and 259, following has been held: -

234. Even otherwise, it is no more res-integra, that law of limitation has to be applied all but the same and with all its rigour, even if it may harshly affect a particular party. In Basawaraj (supra) this Court observed that a result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation. Even if the statutory provision may cause hardship or inconvenience to a particular party the court has no choice but to give full effect to the same. It is based on the legal maxim *dura lex sed lex* i.e., "the law is hard but it is the law". The relevant observations read as under:-

"12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. 'A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.' The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim *dura lex sed lex* which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute.

13. The statute of limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale. [...]"

235. An application seeking condonation of delay is to be decided only within the parameters laid down by this Court. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, on lofty ideals amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the statute.

258. The length of the delay is a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the respondents, it appears that they want to fix their own period of limitation for instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, it cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.

259. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. We should not keep the 'Sword of Damocles' hanging over the head of the respondent for indefinite period of time to be determined at the whims and fancies of the appellants.

8. Keeping in mind the facts of the case, the order passed by the Division Bench *supra* inasmuch as the position and principles of law laid down by the

Apex Court in the aforesaid judgements, the condonation of delay applications filed initially by respondents 3 to 9 herein and subsequently by way of supplementary application before respondent 2 herein need to be extracted and reproduced here under in extenso: -

- 1/ That the applicant has filed the above titled petition before this Hon'ble court and the same is registered and numbered accordingly.
 - 2/ That for the sake of brevity the pleas taken in the main petition are adopted as grounds for the present application which need not to be repeated.
 - 3/ That the applicants have a strong prima facie case in their favour and they are sure to succeed in the same.
 - 4/ That the balance of convenience is in favor of the applicants and against the Non-applicants.
 - 5/ That the applicants were unaware of the Mutations as attested by Tehsildar Gund till date as same has been attested at the back of petitioners.
 - 6/ That in case the relief as prayed for in this application is not granted in favor of the applicant, the applicants shall suffer an irreparable loss and injury which cannot be compensated in any manner later on and the petition will become infructuous.
 - 7/ That the Hon'ble court may be pleased to condone the delay which the applicants have made in filing the appeal.
 - 8/ An affidavit in support of application is hereby annexed.
- In the premises, it is therefore prayed that the delay as made in presenting the appeal may be condoned so as to secure ends of justice.

Supplementary application

1. That the appellant has filed the above titled petition/appeal before this Hon'ble and same is registered and numbered accordingly.
2. That the appellants are the owners and in possession of land measuring 4 kanals under survey no 359 situated at Mouza Sonamarg as appellants got surprised when they approached the revenue department for the issuance of revenue extract of land measuring 4 kanals and was recorded in the name of the respondent no 1 and the type of the land is maidani, as per the Jamabandi for the year 1967-68 Survey no 395 in estate Sonamarg is shown as Maidani has been vested from Ahad, Mahad and Ghulam Mohammad sons of Gaffar, and the said land has been fraudulently mutated in the name of Ghulam Mohammad Beigh by virtue of mutation no 602, section 4 and as land is Maidani and such type of land is not cultivated by any person particularly the respondents.
3. That the appellants got the knowledge of the same when the land was acquired by the NHIDCL in December 2021 for the road project as the appellants approached the revenue authorities for the sake of compensation and they got surprised to see that the said land was recorded in the name of the respondents by way of the fraud mutation as it is mentioned that the land is self cultivated by the respondents which is against the supremacy of the

law laid down in the provisions of the revenue laws. Then after, the appellants approached the court of A.D.C. for the instant appeal.

4. That as per the records it is clear that the mutation has been attested against the provisions of the law and once the fore fathers of the appellants were in self cultivation of the said land in the year 1971 AD and the said land is recorded as the Maidani and vacant, how could the mutation be affected in the name of the respondents who were residing at Srinagar at a distance of 90 kilometers away from the said land and it is not possible for respondent no 1 to cultivate such type of land.

5. That it is needful to mention here that the father of the appellants as well as the appellants were in continuous possession of the said land till the land was acquired by the NHIDCL in December 2021 for road project and the fact of continuous possession can be gathered from the Khasre Girdawari/ Jamabaridi issued by the Revenue Officers. Once the appellants are in the continuous possession of land under Khasre no 395 which means that they are unaware about the said fraud mutation attested in the name of the respondent no 1.

6. That the appellants have the strong prima facia case in their favour and they are sure to succeed in the same.

7. That any application or any appeal, other than the application under any provisions of the Order XXI of Code of Civil Procedure may be admitted after prescribed provisions, if the defeated. As against this, when the delay is condoned, the highest that can happen is that a cause would be decided on merits after hearing the parties, as it is also mentioned in the various judgements that substantial justice and technical consideration are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of non-deliberate delay, it should be grasped that the judiciary is respected not on the account of its power to legalize the injustice on the technical grounds but because it is capable of removing injustice and is expected to do so, as making a justice oriented approach from the prospective that was a sufficient cause for condoning the delay in the instant appeal as the appellants are in continuous possession till the land was acquired by NHIDCL for road purpose in December 2021 and till then the appellants were not having the knowledge about fraud mutation attested in favour of the respondent. Then after they immediately approached before this court with the instant appeal for setting aside the mutation as it means for filling the instant appeal and cause of action accrued by the appellants when they got the knowledge of the said mutation and limitation from the same date accrued to the appellants for filling of the instant appeal.

8. That the supreme court has mentioned in the various judgement that the persons living in the far flung areas are not aware about the revenue laws in such cases condonation of delay can be condoned at any stage whether it is hit by limitation or not.

9. That the grave illegality committed by the mutating officer while attesting the mutation is that he has made the impugned mutation at the back of and without calling and hearing appellants/petitioners. Appellants/Petitioners have been condemned unheard. on this count this mutation is nullity in the eyes of law. As per the law laid down in the various judgements by the Hon'ble High court of Jammu and

10. That it has been held that the mutation in hand is patently without jurisdiction and void ab-initio because there is absolutely no law where under such a mutation can be made that too in such and illegal manner. Hence no question of limitation can come in the way of setting aside of such illegal mutation. It has also been held by the Hon'ble High Court of Jammu and Kashmir that against such an illegal mutation which is based on fraud and made at the back of petitioner/appellant, rules of limitation have to be liberally construed so as to substantiate justice and enforce rule of law.

11. That the approach of the courts/authorities must be to impart substantial justice rather than to tangle in the technicalities as has been held in the case of Collector Land Acquisition Anantnag V/S Katiji by the Hon'ble Supreme court of India.

12. That it is needful to mention that as per the law the period of limitation starts to run from the date of knowledge where impugned order has been passed at the back of the aggrieved party as in the present case. So the court is bound under law to ascertain the date of knowledge.

As is manifest from above, the aforesaid initial application for condonation of delay filed by respondents 3 to 9 herein, is manifestly cryptic and does not anywhere express any sufficient or plausible reason or cause for condonation of delay as the only plea raised and urged in the application is that the applicants/respondents 3 to 9 herein were unaware till date about the mutations in question, as the same had been attested at their back though as per the record available at the relevant point of time of attestation of mutations in question amongst three of their predecessors in interest, two were alive and the said alive predecessors in interest of the petitioner did not during their lifetime challenge the said mutations.

Even it is manifest from the perusal of the supplementary application *surpa* that the respondents 3 to 9 herein have not indicated in specific terms as to why they had no knowledge about the mutations in question which

indisputably have been attested more than 30 years, before filing of the appeal and it is merely stated that the knowledge of the mutations in question came to be got by them only upon acquisition of land by NHIDCL in the month of December 2021, so much so, the source of knowledge is also not disclosed in both applications by the respondents 3 to 9 herein. Therefore, having regard to the aforesaid position obtaining in the matter, it cannot, but be said, that the respondents 3 to 9 herein have failed to express any plausible and sufficient cause for condonation of delay and as such, the respondents 3 to 9 herein can safely be said to have lost the remedy as well as the right available to them in the matter, in view of law laid down by the Apex Court in case titled as **“Pathapati Subba Reddy *supra* and “Shivamma *supra*, and also that law of limitation has to be applied all but the same and with all its rigour, even if it may harshly affect a particular party, in view of law laid down by the Apex Court in case titled as **“Shivamma Vs. Karnataka Housing Board and Ors.,” *supra*.****

9. Viewed thus, for what has been observed, considered and analyzed hereinabove, the instant petition succeeds as a consequence whereof the impugned order dated 10.10.2023 passed by respondent 2 herein condoning the delay of more than 30 years in the condonation of delay application filed by respondents 3 to 9 herein is quashed as a consequence whereof, the impugned order dated 30.04.2024 passed in the main appeal filed by respondents 3 to 9 against mutation Nos.602 and 605 as well is quashed and the condonation of delay application filed by the respondents 3 to 9 herein before respondent 2 herein shall be deemed to have been dismissed along with the accompanying appeal.

10. The amount of compensation which was previously ordered by this Court to be deposited in terms of order dated 08.11.2025 in CM No.2615/2025 filed by the petitioner herein, as per report of the Registry has not been deposited upto now, as such, the official respondents shall be free to disburse the said amount of compensation in accordance with law.

(JAVED IQBAL WANI)
JUDGE

SRINAGAR

17.02.2026

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