

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

**CM No. 5452/2026 in**

**RSA 19/2026**

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**Caveat No. 1596/2026**

Razia Begum and Others

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

Through: Mr. Bilal Ahmad Malla, Advocate

**Vs.**

Mohammad Younus and Others  
(legal heirs of Mst. Shareefa Jan)

...Respondent(s)

Through: Mr. M. A. Makhdoomi, Advocate with  
Ms. Shahista, Advocate

**CORAM:**

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

**ORDER**

**18.08.2026**

1. This time barred **Civil 2<sup>nd</sup> Appeal** instituted on **18.08.2026** is meaning to stretch original civil suit which was instituted way back on **28.04.1970** in which the trial court judgment came on **25.11.1987** and then **Civil First Appeal** remained pending from **February-1988** till **October-2025**.

**2.** This time line is itself an indicator that a very old worn out litigation is being meant to be stretch to its breaking point in case if this Court considers condonation of delay attending the institution of present civil first appeal meant to be maintained at the instance of the defendants/judgment debtors.

**3.** The civil suit was commenced by one **Mst. Shareefa Jan**, the predecessor-in-interest of respondents herein.

**4.** In her said suit, the original plaintiff **Mst. Shareefa Jan** named three defendants i.e., **Wali Mohammad, Sayain and Shareef**.

**5.** The suit was before the court of Munsiff, Uri, wherein the original plaintiff Mst. Shareefa Jan resting upon a title to said property claimed possession of suit land measuring **6 kanals and 1 marla comprising khasra No. 820/581 (minimum 1 kanal 11 marlas), khasra No. 554 (minimum 5 marlas) and khasra No. 534 (minimum 4 kanal 5 marlas) situated at village Auranpora, Tehsil Uri.**

6. The suit was for possession of suit land.

7. The suit came to be contested by the defendant

No.1 Wali Mohammad by filing of his own written statement whereas written statement from the end of the defendants 2 and 3 came separate.

8. Issues came to be framed which are as under:

- a. Is defendant No.1 in possession of suit land without any right ? OPP
- b. In case issue No.1 is proved negative, has the defendant No.1 any right to be in possession for the suit land and is in possession of suit land as owner thereof. OPD-1
- c. Has adverse possession of defendant No.1 matured over the suit land, as such the suit is time barred? OPD-1
- d. Has the plaintiff relinquished her interest in the suit land by an agreement dated 17.10.1985 and as such she has no right to institute the suit? OPD-1
- e. Relied "on both sides"

9. The trial court of **learned Munsiff, Uri** came up

with findings on facts of issues framed, on the basis whereof the original plaintiff was held entitled to the decree for possession of the suit land on the strength of her title of ownership viz-a-viz the suit land as against the non-title of defendants viz-a-viz suit land.

**10.** The defendants, in particular the defendant No.1 purportedly claimed the suit land by reference to the father of the original plaintiff Mst. Shareef Jan meaning thereby the defendant No.1 was not having the status of being the original title holder of suit land otherwise purportedly in his possession to the extent of **1/3<sup>rd</sup>** of other two defendants having **2/3<sup>rd</sup>**.

**11.** By virtue of judgment/decreed dated **25.11.1987**, the suit came to be decreed by the trial court.

**12.** At the time of institution of civil first appeal under **section 96 read with Order 41 of J&K Code of Civil Procedure Samvat, 1977**, all the original parties to the suit were alive.

**13.** Of all three defendants/ judgment debtors, only the **defendant No.1-Wali Mohammad** chose to contest the decree and judgment of the court of **Munsiff, Uri**.

**14.** The memo of **civil first appeal** so preferred by the defendant No.1/ appellant Wali Mohammad is **one and half page memo** in which there is no

factual references as to how the findings returned by the trial court viz-a-viz the issues framed were meant to be assailed, be it in terms of defect in appreciation and appraisal of evidence or drawing of inference from the evidence on the basis whereof the findings came to be returned. In fact, in the memo of appeal, the defendant No.1/ appellant Wali Mohammad, was not making any claim and reference to his title viz-a-viz the suit property except saying that he was in ownership and possession of the suit land since long and had made investments in the improvement of the suit land. There is even a muted reference in the memo of appeal that the original plaintiff Mst. Shareef Jan's father had made will with respect to the suit land in favour of the defendant No.1/appellant Wali Mohammad.

**15.** This Court is surprised that one and half page memo of civil first appeal could engage the appellate court of **Principal District Judge, Baramulla** for more than **27 years** in running.

**16.** This Court can only register its appreciation for the Presiding Officer of the court of Principal District Judge, Baramulla who ventured to take the appeal to its logical end notwithstanding its long pendency and disposed it by virtue of first Appellate court judgement dated **31.10.2025** by coming with an elaborate examination and appraisal dealing with all so called grounds of objections raised from the end of the **sole appellant Wali Mohammad** who died during the pendency of the **civil first appeal** and so was the decree holder/plaintiff **Mst. Shareef Jan** who also demised, thereby bringing on record the legal representatives to carry the litigation to its logical end.

**17.** The **first appellate court** has done justice to the adjudication of the lis by staying fully conscious of the fact that as appellate court, both factual as well as legal canvass of the case, is fully available for adjudication as was before the trial court of **Munsiff, Uri.**

**18.** Thus, there are concurrent findings of facts as well as law in favour of the original plaintiff against the original defendants.

**19.** In fact, out of three defendants, two defendants/judgment debtors reconciled with the trial court's judgment and decree about which the **defendant No.1- Wali Mohammad** as a appellant had nothing to say in his memo of appeal as to whether said two defendants, as judgment debtors had switched side to support the case of the original plaintiff. Sole **appellant - Wali Mohammad** had not even whispered the fact that there was a support to be drawn in his favour from the stand of co-defendants 2 and 3 to case set up by him in the written statement.

**20.** It is against the aforesaid backdrop that the litigation which has taken more than 26 years' journey is still intending to limp further through the medium of condonation of delay application accompanying civil 2<sup>nd</sup> appeal meant to be maintained by the legal representatives of the original defendant No.1-Wali Mohammad.

**21.** Condonation of delay application **CM No.**

**5452/2026** is for seeking condonation of delay of **197** days by reference to which a plea is being taken that certified copy of judgment of the first appellate court was not issued to the applicants/appellants and also that the record at the disposal of the applicants /appellants was not legible which consumed time in getting the typed version and in that process the limitation period was overshoot by **197** days.

**22.** This Court is not convinced that sufficient cause is being set up by the applicants particularly when the applicants were confronted with concurrent judgment of the trial court as well as the first appellate court and in that respect the only thing which was required from the end of the applicants to come forward was a certified copy of the decree/judgment whichever available from the court of Principal District Judge, Baramulla and also a copy of the trial court decree as well as the judgment, certified or uncertified for which exemption could

have been sought from this Court for producing certified copy later on. Therefore, this Court would be safe in inferring that ten appellants/applicants were actually acting at their leisure in the matter of coming up with the present time barred **Civil 2<sup>nd</sup> Appeal** for which this Court cite good number of other reasons but for the sake of propriety is avoiding to cite.

**23.** Condonation of delay application **CM No. 5452/2026** is, thus, **dismissed.**

**24.** A copy of this order be forward to the court of learned **Principal District Judge, Baramulla** for notice and record.

**(RAHUL BHARTI)**  
**JUDGE**

*Srinagar*  
*18.08.2026*  
*"Imtiyaz"*