

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

CR 71/2025 CM(7321/2025)

MIR JAVID AHMAD SHAH

...Petitioner/Appellant(s)

Through: Mr. Showkat Ali Khan, Advocate

Vs.

MOHAMMAD SHAFI KHOSA AND ORS.

...Respondent(s)

Through: None

CORAM:

HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE

ORDE R

10.04.2026

1. Impugned in this review petition filed by the petitioner is an order dated 24th July, 2025 passed by the learned 3rd Additional District Judge, Srinagar [“the Appellate Court”] in case titled “***Abdul Aziz Khosa Vs. Mir Javid Ahmad Shah***” whereby the application filed by the respondents for condonation of delay in filing the appeal against the ex parte judgment and decree dated 5th December, 2022, passed by the learned Munsiff, Srinagar in the case titled “***Mir Javid Ahmad Shah vs. Abdul Aziz Khosa & Ors.***”, has been allowed.
2. The impugned order is challenged by the petitioner on the ground that the Appellate Court failed to appreciate that the respondents had miserably failed to demonstrate any “sufficient cause” preventing them from filing the appeal within the prescribed period, so as to attract the applicability of Section 5 of the Limitation Act, 1963.
3. Mr. Showkat Ali khan, learned counsel appearing for the petitioner would argue that the negligence of counsel cannot be a ground for condoning the delay, more particularly when there is no such evidence brought on record by the applicant in the application for condonation of delay that he had done all what was required on his part and it was share negligence of the counsel that he was

proceeded ex parte and was not informed about the decision of the suit.

4. Having heard learned counsel for the petitioner and perused the material on record, I am of the considered opinion that the order impugned passed by the Appellate Court is legally and factually correct. The Appellate Court has taken care of all facts and circumstances in this case and accepted the explanation tendered by the respondents. Not only a decree has been passed by the learned Munsiff, Srinagar against the respondents in ex parte but the same, as per the submission made by the learned counsel for the petitioner, also stands executed. The respondents have already been evicted. All this has, apparently, happened as the respondents could not contest the suit or execution, whether it was on account of some defect in service of the respondents or due to negligence of the counsel who was engaged by some of the respondents. However, the fact remains that the suit was not contested by the counsel who was engaged by the respondents to defend them.
5. It is also pertinent to note that the suit in question was one for eviction, and pursuant to the ex parte decree, the respondents have already been dispossessed from the suit property.
6. Having regard to the aforesaid facts and circumstances, and considering the manner in which discretion has been exercised by the Appellate Court, this Court does not find the present case to be a fit one for interference in exercise of revisional jurisdiction. The condonation of delay is primarily a matter of judicial discretion, and once such discretion has been exercised judiciously, it would not be appropriate for a higher court to interfere with the same.
7. For the aforesaid reasons, this Court finds no merit in this review petition and the same is, accordingly, **dismissed**.

(SANJEEV KUMAR)
JUDGE

SRINAGAR:

10.04.2026

"Mir Arif"