

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

Case No. CM(M) No. 381/2023

Reserved on : 16.09.2025
Pronounced on : 06.06.2026
Uploaded on : 09.06.2026
Whether the operative part or full
judgment is pronounced: Full

1. Oriental Insurance Co Ltd.
Divisional office Srinagar

2. Branch Manager,
Oriental Insurance Co. Kulgam
Through their Incharge TP Hub Jammu
Mrs. Savita Bakhshi

....Petitioner/Appellant

Through:- Mr. N .A. Dendru, Advocate

V/s

1.Mohammad Yousuf Bhat
S/O Mohammad Ramzan Bhat
R/O Arwani Bijbehara Anantnag.

2. Manager
Ellaquai Dehati Bank,
Branch Arwani Bijbehara.

.....Respondent(s)

Through:- Mr. Aijaz Ahmad Katoo, Advocate

CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE
HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE

JUDGMENT

PER SINDHU SHARMA-J

1. The petitioners are aggrieved of the order dated 24.11.2023 passed by the learned *J&K State Consumer Disputes Redressal Commission, Srinagar* (hereinafter “the State Commission”) in *Appeal titled Oriental Insurance Co.*

Ltd. v. Mohammad Yousuf Bhat & Anr., whereby the application for condonation of delay was disallowed and order dated 28.12.2018 passed by the *District Consumer Disputes Redressal Forum, Anantnag* was sustained and the appeal of the petitioners came to be dismissed as not maintainable.

2. Briefly stated, the District Forum, Anantnag, vide order dated 28.12.2018, allowed the complaint of the respondent and directed the petitioners–Insurance Company to pay damage to the respondent to the extent of ₹3.50 lac (three lacs fifty thousand only) together with interest @ 6% from the date of filing of complaint along with ₹10,000/- as mental agony and harassment and ₹5,000/- as litigation charges.

3. Aggrieved thereof, the petitioners preferred an appeal before the State Commission under *Section 13 of the Jammu & Kashmir Consumer Protection Act, 1987* on 17.04.2019, accompanied by an application for condonation of delay. The State Commission, vide order dated 10.05.2019, allowed the said application, subject to payment of cost of ₹1500/-. The said order reads as under:-

“10.05.2019. Parties present. There is an application seeking condonation of delay. The objections have been filed. For the reasons stated in the application, the delay is condoned subject to payment of ₹1500/-. P.O.A on

behalf of respondent's counsel is taken on record. Record be summoned from DR concerned. List on 10.07.2019.”

4. The record shows that thereafter case was listed on 10.07.2019 and 23.07.2019, when both parties were present, however, the petitioners failed to deposit the cost as directed. Thereafter, the case was listed on 09.08.2019 & 22.10.2019. Consequently, the conditional order allowing the application for condonation of delay became infructuous, leading to dismissal of the appeal. The learned Commissioner held that since costs as directed have not been paid thus, order of condoning the delay has become infructuous thereafter, proceeded to revive the application. The Commissioner thereafter, proceeded to decide the application for condonation of delay afresh and dismissed the application being without any merit.

5. We have heard learned counsel for the parties, perused the material on record as well as record of the State Commission.

6. We are of the view that the petition deserves to be dismissed through not for the reasons stated in the impugned order.

7. Learned counsel for the petitioners submits that the cost could not be deposited due to prevailing law and order conditions in the Kashmir Valley following the abrogation of

Article 370 of the Constitution of India. It is further contended that on 24.11.2023, the petitioners offered to deposit the cost of ₹1500/- but the same was declined by the State Commission. It is submitted that the delay in filing the appeal was only ten days, caused due to the time taken for obtaining the certified copy of the District Forum's order (received on 06.03.2019) and internal approvals from the controlling office at Jammu, along with the mandatory pre-deposit. Hence, the dismissal of the appeal on such a technical ground is argued to be unjust.

8. The record of the State Commission shows that the application for condonation of delay was allowed conditionally, subject to payment of costs of ₹1,500/-. The petitioners, despite being aware of the condition and being present on subsequent dates, failed to comply the order or to seek any extension of time or modification of the condition.

9. The conditional order dated 10.05.2019 was not complied with by the petitioners despite sufficient opportunities. The plea of law and order issues in August 2019 cannot explain non-compliance during May to July 2019. The cost imposed was nominal, and no material has been produced to show that circumstances beyond control prevented compliance. Further, there is no proof that

anything serious or unavoidable stopped the petitioners from following the order between 10 May 2019 and 23 July 2019.

10. The State Commission, instead of dismissing the application for not satisfying the condition of condoning the delay has held that the order condoning the delay is infructuous and proceeded to revisit the application and decide the same. This would not be proper in the facts and circumstances of the case.

11. We are of the opinion that the conditional order had lapsed due to non-fulfilment of the pre-condition and consequently, the appeal was to be dismissed on that ground.

12. When a delay is condoned subject to the condition of payment of costs, the order does not become effective unless the costs are paid. The condition imposed by the court is not a mere formality. If the party fails to comply with the condition within the time allowed or within such further time as may be granted, the benefit of the order cannot be availed of, and the appeal or proceeding remains barred by limitation. In *State of Maharashtra v. Super Max International Pvt. Ltd.*, (2009) 9 SCC 772, the Hon”ble Supreme Court in para 44 observed as under:-

“ In an appeal or revision, stay of execution of the decree(s) passed by the Court(s) below cannot be asked for as of right. While admitting the appeal or revision, it is perfectly open to the Court, to decline to grant any stay or to grant stay subject to some reasonable condition. In case stay is not granted or in case the order of stay remains inoperative for failure to satisfy the condition subject to which it is granted, the tenant in revision will not have the protection to any of the provisions under the Rent Act relied upon by Mr. Latit and in all likelihood would be evicted before the revision is finally decided. In the event the revision is allowed later on, the tenant's remedy would be only by way of restitution.”

13. Again the Hon'ble Supreme Court in case titled ***Shivamma (Dead) by Lrs vs. Karnataka Housing Board and ors***, 2025 INSR 1104, in para 59 observed as under:-

“59.Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixes a lifespan for such legal remedy for the redress of the legal injury so suffered. Time is precious and wasted time would never revisit. During the efflux of time, newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a lifespan must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time. The law of limitation is thus founded on public policy. [See: N. Balakrishnan v. M. Krishnamurthy, (1998) 7 SCC 123]”

14. A Hon'ble Division Bench of Delhi High Court in case titled ***Delhi Development Authority vs. Mis Durga Construction Co.***(2013) 139 DRJ 133(del) in para 16 observed as under:-

“In our view, filing of application and re-filing of the same after removing defects, stand on completely

different footings in so far as the provision of limitation is concerned. It is now well-settled that limitation does not extinguish an obligation but merely bars a party to take recourse to courts for availing the remedies as available to the party. Thus, in the event a party fails to take expeditious steps to initiate an action within the time as specified, then the courts are proscribed from entertaining such action at the instance of such a party.”

15. In the present case, the delay was condoned by the State Commission vide order dated 10.05.2019 subject to payment of cost of ₹1500/- and the case was adjourned to 10.07.2019, thereafter to 23.07.2019. On the said two dates the petitioners were present and aware about the fact of deposit of the costs, yet made no effort to comply with the same. The petitioners lack of follow-up on the case cannot simply be justified by citing the prevailing law and order conditions in the Kashmir Valley following the abrogation of Article 370 of the Constitution of India, especially considering that Courts continued to operate through online platforms and electronic communication. There is no convincing reason provided for why the petitioners could not utilize these options. The petitioners had entered appearance on the following dates, therefore, has the responsibility to track the developments of their case. The petitioners were aware of the orders and proceedings, but opted not to deposit the costs within time.

16. Therefore, we find that the appeal deserves to be dismissed on account of non-compliance with the conditional order dated 10.05.2019 passed by the State Commission, which was well within its jurisdiction and is supported by settled principles of law.

(Shahzad Azeem)
Judge

(Sindhu Sharma)
Judge

JAMMU
06.06.2026
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Whether approved for reporting: Yes/No