

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

**CMPMO No. 326 of 2026
Date of Decision: 08.09.2026**

Sanjay Mahajan

...Petitioner.

Versus

Vijender Kumar Arvind Jain & another

...Respondents.

Coram

Hon'ble Mr. Justice Romesh Verma, Judge.

Whether approved for reporting?¹

For the petitioner: Mr. Arhant Mahajan, Advocate, vice
Mr. Rahul Mahajan, Advocate.

For the respondents: Mr. Shashi Shirshoo & Mr. Abhishek
Dulta, Advocates, for respondent
No.1.

Respondent No.2 proceeded against
ex-parte vide order dated 05.08.2026.

Romesh Verma, Judge(oral)

The instant petition has been filed by the petitioner, assailing the order dated 20.03.2026, passed by the learned Senior Civil Judge, Nadaun, District Hamirpur, H.P., whereby applications filed by the petitioner/defendant No.1, under Section 5 of the Limitation Act and another under Order 9 Rule 7 read with Section 151 of CPC, for condonation of delay and for setting aside the ex-parte order dated 31.03.2017, came to be dismissed.

¹ Whether reporters of Local Papers may be allowed to see the judgment?

2. The facts as emerge in the present case are that the plaintiff/respondent No.1 filed a suit for recovery of Rs. 51,94,000/- against the petitioner/defendants initially before this Court, bearing Civil Suit No. 52 of 2016, titled as, Vijender Kumar Arvind Jain vs. Sanjay Mahajan & others and during the pendency of the aforesaid civil suit before this Court, defendants were proceeded against ex-parte vide order dated 31.03.2017.

3. Thereafter, the petitioner filed an application under Order 9 Rule 7 read with Section 151 CPC for setting aside the ex-parte order dated 31.03.2017 along with application under Section 5 of the Limitation Act for condonation of delay in filing the application under Order 9 rule 7 CPC before this Court.

4. During the pendency of these applications before this Court, on account of enhancement of pecuniary jurisdiction, vide order dated 03.11.2022, the matter was relegated to the Court of learned Senior Civil Judge, Nadaun, District Hamirpur, H.P.

5. The learned trial Court proceeded in the matter and vide its order dated 20.03.2026 dismissed the applications filed by the petitioner.

6. Feeling dissatisfied, the petitioner has approached this Court, assailing the impugned order dated 20.03.2026, as passed by the learned trial Court.

7. It is contended by learned counsel for the petitioner that the impugned order as passed by the learned trial Court is erroneous and

liable to be set aside as the same was passed at the back of the present petitioner and that he was not duly served in those proceedings. He submits that after accepting the present petition, the applications filed under Section 5 of the Limitation Act and under Order 9 Rule 7 read with Section 151 CPC, be allowed.

8. Learned counsel for respondent No.1 has fairly conceded that in case the petitioner is burdened with costs then the applications, as filed by the present petitioner can be allowed. He further submits that apart from that in case the applications, as filed by the present petitioner are allowed, in that event, time bound direction be issued to the learned trial Court to conclude the proceedings of the civil suit in an expeditious manner.

9. Though, there is a considerable delay in filing the application for setting aside the ex-parte order dated 31.03.2017, however, in the interest of justice as a matter of indulgence and on account of no-objection on behalf of learned counsel for respondent No.1, last and final opportunity is granted to the present petitioner to join the proceedings from the date, when he was proceeded against ex-parte i.e. on 31.03.2017.

10. The indulgence is being shown to the present petitioner subject to payment of cost of Rs. 10,000/- to be paid to the plaintiff on the next date of hearing before the trial Court.

11. The parties are directed to appear before the learned trial Court on **11.09.2026**. It is made clear that, in case the payment of cost

of **Rs. 10,000/-** is not paid to the plaintiff on the next date of hearing, in that event, automatically, the impugned order shall revive.

12. The learned trial court is directed to expedite the matter, since the suit pertains to the year 2016 and to take the same to its logical end, preferably within a period of one year from today.

13. With these observations, the present petition is disposed of. Pending applications, if any, also stand disposed of.

(Romesh Verma)
Judge

September 8, 2026
(Nisha)