

**Des Raj Vs. The Chief Settlement
Commissioner and Ors.**

**CMP No.30883 of 2025 in
LPA No.185 of 2021**

**Item No.D-5
29.07.2026**

Present: Mr. Abhishek Barowalia, Advocate, for the
applicant/petitioner.

Mr. Arsh Rattan, Deputy Advocate General,
for the respondents/State.

**CMP No.30883 of 2025 and CMP(M)
No.2289 of 2025**

The present application (CMP No.30883 of
2025) has been filed for restoration of ***LPA No.185 of
2021, titled Des Raj Vs. Chief Settlement
Commissioner and Ors.***, which was dismissed on
13.05.2024, on account of non-appearance and the
ground taken is that the counsel was unwell on the said
date.

From the averments made in the application
(CMP(M) No.2289 of 2025) duly supported by the
affidavit of the applicant, it is evident that there is a
delay of 519 days in filing the application for restoration
of appeal. The reasons cited in the application are that
the applicant is a retired Government Servant from the
Forest Department, aged 83 years and lives in Nurpur,
District Kangra, HP and he could not come for filing the
application due to his illness as such.

Learned counsel for the applicant submits that on the earlier occasions, the counsel was appearing, but on the said date, he was unwell and due to that fact, he could not appear on the said date. In such circumstances, conditional costs could have been imposed before dismissing the appeal, however, nothing has been recorded neither, it is clear from the zimni orders that there was a willful absence as such of the counsel for the appellant.

On 31.12.2021, notice had been issued by the Coordinate Bench and an order of status quo qua the property had been granted. The appeal in the case at hand was admitted on 05.01.2023. It is further pointed out that on 03.05.2024, the matter was heard in part and again heard on 06.05.2024. In such circumstances, the prayer has been made for allowing the applications.

Keeping in view the above, we are of the considered opinion that the matter was already part-heard as such before the Bench in question and the arguing counsel could have informed the Court that he was unwell so that the Court could have given a short date as such for concluding the arguments.

However, it is settled principle that a litigant should not suffer on account of absence of the counsel. Resultantly, we deem it fit to condone the delay, recall the order

dated 13.05.2024 and restore the appeal to its original number. The same is subject to deposit of cost of Rs.10,000/- with "Poor Patient Treatment Fund" (A/c No. 34256228603, IFSC SBIN0004054, at SBI IGMC, Shimla), at Indira Gandhi Medical College (IGMC), Shimla within four weeks from today.

It is made clear that if the amount is not deposited within the aforesaid period, then this order will be deemed to have been recalled without further reference to this Court. The applications stand disposed of.

(G.S. Sandhawalia)
Chief Justice

(Bipin C. Negi)
Judge

29th July, 2026
(Gaurav Rawat)