Sr. No.28

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

WP (C) No. 1179/2025

Kuljeet Singh …..Petitioner(s)

Through: Mr. Nirmal Kotwal, Sr. Advocate with
Ms. Surabhi Kotwal, Advocate.

Vs

Tejinder Singh and others ….. Respondent(s)

Through: None.

Coram: HON'BLE MR. JUSTICEYASH PAUL BOURNEY, JUDGE

ORDER
04.11.2026

(**ORAL**)

1. There is no representation on behalf of the respondents today. So was the case on the last date of hearing as well. Even the response has also not been filed till date.

2. The petitioner has approached this Court with a limited grievance that though his written statement filed beyond the prescribed period has not been taken on record, yet the question relating to the delay in filing the written statement has already been considered by the Division Bench of this Court in WP(C) No. 1307/2023 being a lead case, titled "***Anoop Dutta Vs. Nissar Ahmad Bhat"***, vide judgment dated 28.09.2026, wherein following has been held:-

> ***"……***
> ***74. That, we are of the considered view that inordertoupholdthevalidity of the amended provisions, so as to achieve the salutary object of expeditious disposal of cases, thetimeline provided under theamended provisions is required to be read down. However, whiledoing so, this Court has to keep in mind the legislative intent of incorporatingforfeitureclauseinprovisoto Rule1ofOrderVIIICPC. Abalancehastobestruck between thelegislativeintentofdoingaway with the delay in proceedings of civil cases and the need to save the power of a civil Court to take care of extreme situations where a defendant has genuinely been incapacitated in filing the written statement within the statutory limit of 120 days due to the reasons beyond his control. To achieve this objective, only in exceptional circumstances, which make it impossible for the defendant to***

> ***adhereto the timeline of 120 days in filing the written statement that theCourt would be justified to extend the period for filing the written statement and not otherwise. These impossible situations may include prolonged serious ailment of a defendant, natural calamities, physical or legal disability of a defendant, delay in obtaining indispensable public documents, which is neither intentional nor a result of negligence,thedelaycausedduetoexplorationofpossibilitiesofresolution of dispute between the parties by adopting alternative dispute resolution mechanisms as provided under section 89 and Order XXVII Rule 5B of the CPC. These situations are only illustrative in nature. Similar other situations, which make it impossible for a defendant to file written statement within the period of 120 days of service of summons upon him/her would justify the action of the Court in extending the period of filing written statement beyond 120 days. In short the defendant will have to show something more than exceptionally hard situation, for persuading the court in relaxing the timeline of 120 days."***

3. In the view of the aforesaid findings, the trial Court is required to consider whether the petitioner was prevented by the circumstances beyond his control from filing the written statement within the prescribed period. Accordingly, this petition is ***disposed of*** with a direction to the trial Court to consider the petitioner's prayer for condonation of delay in filing the written statement and to determine whether the petitioner was prevented by sufficient cause or circumstances beyond his control from filing the same within the prescribed period. The trial Court shall consider the matter in light of the aforesaid legal position and pass an appropriate order in accordance with law.

4. The petition stands ***disposed of*** accordingly, alongwith connected application(s), if any.

5. A copy of this order shall be forwarded to the trial Court for information and necessary compliance.

(Yash Paul Bourney)
Judge

Jammu
04.11.2026
Mahavir

HIGH COURT
सत्यमेव जयते
OF JAMMU & KASHMIR AND LADAKH