Sr. No. 08

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
ATJAMMU

MA No. 20/2021
CM No. 8616/2021

M/S M.P. Traders Company Subash Nagar Jammu .....Applicant(s)/Appellant(s)

Through :- Mr. Masood Chowdhary, Advocate

v/s

Apri Network New Delhi .....Respondent(s)

Through :- None

CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE

ORDER
23.10.2026

01. Despite service, the respondent has chosen not to appear and, therefore, they were set ex parte vide Order dated 07.10.2026.

02. This is an appeal, in terms of Order 43 Rule 1 CPC, against an order dated 13.10.2021, passed by learned 1st Additional District Judge, Jammu, ["the trial court"] in file No. 59/App. titled "M.P Traders Company v/s. APRI Network", whereby the application filed by the appellant for restoration of the suit which was dismissed in default on 25.03.2019, has been rejected being barred by limitation.

03. Having heard learned counsel for the appellant and perused the material available on record, I am of the considered opinion that the trial court has taken a very narrow and pedantic view of the matter. The suit was dismissed in default on 25.03.2019, whereas the application for restoration was filed on 24.05.2019. There was, thus, a delay of 30 days in preferring the application. The delay was sought to be explained by

the appellant by stating that the counsel, who was representing the appellant before the trial Court, died immediately after dismissal of the suit and, therefore, requisite steps for restoration could not be taken in time.

04. Ordinarily, such an explanation ought to have been accepted by the trial Court, but it seems that the trial Court took a very narrow and strict view in the matter and, thus, non-suited the appellant.

05. Be that as it may, having regard to the facts and circumstances of the case and also taking note of the fact that the application was only delayed by 30 days and that, too, for an apparently genuine cause, I am inclined to allow this appeal and set aside the order passed by the trial Court.

06. Accordingly, the appeal is allowed and Order dated 13.10.2021 is set aside. The application preferred by the appellant for condonation of delay and restoration of the suit are allowed and the suit titled **"M.P Traders Company v/s APRI Network"** is restored to its original number.

07. The appellant shall appear before the trial court on 24.11.2026. The trial Court shall proceed in the matter after putting the respondent to notice.

(Sanjeev Kumar)
Judge

JAMMU
23.10.2026
Sapna

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
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