IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

Civil Revision No. 48 of 2026.

Decided on :27th April, 2026.

Mukand Lal **...Petitioner.**

Versus

H.P. State Civil Supplies Corporation Ltd.

....Respondent.

Coram:

The Hon'ble Mr. Romesh Verma, Judge.

Whether approved for reporting?[1]

For the Petitioner: Mr. Sandeep Chauhan, Advocate.
For the Respondents: Mr. Prashant Sharma, Advocate.

Romesh Verma, Judge (Oral).

The present petition arises out of the order as passed by the learned Senior Civil Judge, Shimla, District Shimla, on 13.01.2026, whereby the application filed by the plaintiff under the provisions of Order 9, Rule 4 CPC along with application under Section 5 of the Limitation Act were allowed.

2. The facts of the case are that the suit for recovery of a sum of Rs.35,23,385/- was originally filed before this Court bearing Civil Suit No. 12 of 2016. On account of enhancement of pecuniary jurisdiction, the said civil suit was transferred on 06.01.2023 to the Court of learned Senior Civil Judge, Shimla. In the order, which was

[1] Whether reporters of the local papers may be allowed to see the judgment?

passed by this Court, the parties through their counsel were directed to appear before the learned Senior Civil Judge, Shimla on 05.04.2023. On 05.04.2023, none appeared for the plaintiff, consequently, learned trial Court on the very same and first day, dismissed the civil suit on account of non presence of the plaintiff/counsel for default.

3. The plaintiff filed an application under Order 9, Rule 4 read with Section 151 of the PC for restoration of the said suit, which was dismissed in default by the learned trial Court on 05.04.2023. It has been averred in the application that on 12.06.2023 when the plaintiff department inquired about the status of the case, counsel for the plaintiff checked the status from the official site of the High Court of H.P., he came to know that the above mentioned suit was listed before the learned trial Court on 05.04.2023 and after checking the cause list of 05.04.2023, he was shocked to know that the case was dismissed in default on account of non presence of the plaintiff/counsel. The application has been filed on the affidavit of Shri Hitender Thakur, Advocate, District Court Chakkar, Shimla.

4. The application was duly resisted and contested by the present petitioner by filing the reply to the said application. In the

reply, it has been averred that there is no explanation for not filing the aforesaid application well within period of limitation. Further, it has been stated that all the averments made in the application are false, incorrect and afterthought. Further, it has been stated that the plaintiff had the knowledge regarding the listing of the case before the learned trial Court on 05.04.2023 since the High Court had given specific date on 06.01.2023 for the presence of the parties through their counsel.

5. Learned trial Court vide impugned order dated 13.01.2026 allowed the application subject to payment of costs of Rs.3000/-. It is contended by Mr. Sandeep Chauhan, learned counsel for the petitioner that the impugned order is erroneous and it be set aside.

6. On the other hand, Mr. Prashant Sharma, learned counsel for the respondent has defended the impugned order. He has submitted that the learned trial Court has taken reasonable view by allowing the application in the interest of justice and in order to impart substantial justice to the parties.

7. I have heard learned counsel for the parties and have also gone through the record carefully.

8. Admittedly, the suit was transferred by this Court to the Court of learned Senior Civil Judge, Shimla on 06.01.2023, whereby, this Court had directed the parties to remain present before the Court of learned Civil Judge, Shimla on 05.04.2023 through their counsel. On the said date i.e. on 05.04.2023, none appeared for the plaintiff, therefore, the learned trial Court dismissed the suit for default. The application which has been filed under the provisions of Order 9, Rule 4 read with Section 151 of the CPC has been duly supported by the affidavit of Advocate, who was representing the present respondent before the learned trial Court. Though, the rigours of limitation has to be strictly complied/implied, however, keeping in view the fact that the case was remitted back by this Court on 06.01.2023 and the date for listing of the case before the learned trial Court was 05.04.2023 and on the very same day, learned Trial Court dismissed the civil suit for default, this Court is of the opinion that the impugned order which has been passed by the learned trial Court does not suffer from any infirmity or illegality or jurisdictional error.

9. Consequently, there is no merit in the present petition and the same is dismissed, however, only with the clarification that

costs of Rs.3000/- is increased to Rs.12,000/-, which shall be paid to the petitioner. It is made clear that in case the costs of Rs.12,000/- is not paid to the petitioner within a period of four weeks from today, in that event, the benefit of the present order shall not be applicable to the present respondent.

10. Petition stands disposed of, so also, the pending applications, if any.

(Romesh Verma)
Judge

27th April, 2026.
(jai)