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Jeet Ram vs. Municipal Corporation, Shimla

CMP(M) No.994 of 2026

17.11.2026 Present: Mr. L.S. Mehta, Advocate, for the applicant/petitioner.

Mr. Deepak Sharma, Advocate, for the non-applicant/respondent.

By way of present application, the applicant/petitioner has prayed for condonation of delay in filing the revision petition.

2. It has been averred in the application that the Himachal Pradesh State Electricity Board was repeatedly issuing notice for disconnection of the electricity and water connections installed in the building of the applicant/petitioner and other co-owners. Aggrieved by such acts, the co-owners of the building filed a civil suit for permanent prohibitory injunction against the respondents in the year 2023, titled, ***Kapil and others versus MC and others*** before the learned Civil Court at Shimla. The learned Civil Judge, Court No. 5, Shimla (in short 'learned trial Court'), vide order dated 25.04.2026 had confirmed the ad-interim order restraining the respondents from disconnecting water and electricity connections of the premises known as 'Jeet Ram Building' situated near Sukhi Bowri, Lower Cemetery, Sanjauli, Shimla. Despite the aforesaid order, the respondents continued to unnecessarily harass the applicant/petitioner and other co-owners.

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3. In the first week of April 2026, the officials of the respondent visited the suit property and threatened the applicant/petitioner to remove the alleged encroachment, failing which the same would be removed at his risk and cost or otherwise he should obtain a stay order from the competent court. The applicant/petitioner was under a *bonafide* impression that there was no necessity to challenge the judgment dated 24.04.2025 passed by the learned Additional District Judge, Shimla, as the co-owners had already instituted the aforesaid civil suit pertaining to the same suit land and the respondents had already been restrained by the competent Civil Court.

4. The applicant/petitioner approached his counsel who had been defending his case before the learned trial Court and upon examining the matter, he advised him to assail the impugned judgment by way of filing the revision petition before this Court. Thereafter certified copies of the impugned judgment and the orders were obtained and after going through the entire record, the impugned judgment and the orders passed by the learned Courts below, the revision petition has been instituted along with the present application for condonation of delay in filing the revision petition. It has been averred that the delay in filing the revision petition is neither intentional nor deliberate, but has occurred due to *bonafide* reasons explained above. No harm or prejudice is

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going to be caused to either of the parties, in case the delay in filing the revision petition is condoned.

5. The non-applicant/respondent filed reply to the application and in preliminary submissions averred that the application is not maintainable in the present form as the revision petition is time barred by 305 days. It has further been averred that one cannot take advantage of delay and laches caused by himself at a belated stage as per the judgment of the Hon'ble Supreme Court in ***State of Maharashtra vs. Digambar***, (1995) 4 SCC 683 and judgment in CWP No. 500 of 2021, titled, ***Sant Ram and others vs. State of Himachal Pradesh and others*** decided on 31.03.2021. The applicant/petitioner has failed to give any cogent and plausible reason for condonation of delay. The averments in the application are vague and general and, hence the application is liable to be dismissed. It has further been averred that the law of limitation is founded upon public policy and requires every litigant to act with due diligence. Mere negligence, inadvertence, ignorance of law or erroneous calculation of limitation period cannot be treated as sufficient cause for condoning the delay. The applicant/petitioner has failed to show any *bonafide* and sufficient cause to justify the delay.

6. On merits, it has been averred that the applicant/petitioner has failed to explain each and every day's delay in filing the revision petition. The contents of

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the application with respect to the order having been passed by the learned Civil Judge dated 25.04.2026 has not been denied by the respondent. The applicant/petitioner had ample amount of time to consult his counsel after passing the order by the learned Additional District Judge (CBI Court), Shimla (HP) vide judgment dated 24.04.2025, whereby the order passed by the Commissioner, Municipal Corporation, Shimla dated 18.03.2023 was upheld. The applicant/petitioner cannot take advantage of delay and laches caused by himself and as such prayed for dismissal of the application.

7. The applicant/petitioner filed rejoinder to the reply filed by the non-applicant/respondent and controverted the averments made therein. The applicant/petitioner has also placed on record the copy of the order dated 01.07.2023 passed by the trial Court, whereby the interim order was passed in favour of Kapil and others in their application filed under Order 39 Rules 1 and 2 of the Code of Civil Procedure, which was confirmed on 25.04.2026.

8. I have heard the learned counsel for the parties and also perused the record carefully.

9. It is not in dispute that the co-owners of the building have instituted a civil suit in the year 2023, in which the ad-interim order was passed on 01.07.2023, which came to be confirmed on 25.04.2026. Once the co-

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owners were already litigating and had obtained the ad-interim orders, whereby the respondent and other respondents i.e. Himachal Pradesh State Electricity Board, were restrained from disconnecting the civic amenities i.e. water and electricity connection of the premises known as Jeet Ram Building near Sukhi Bowri, the applicant/petitioner was under *bonafide* belief and due to that reason he could not challenge the order dated 24.04.2025 passed by the Additional District Judge (C.B.I. Court) District Shimla (HP), whereby the order dated 18.03.2023 passed by the Commissioner, Municipal Corporation, Shimla (HP) was upheld.

10. Learned counsel for the applicant/petitioner has placed reliance upon the judgments of the Hon'ble Supreme Court in ***N. Balakrishnan vs. M. Krishnamurthy***, (1998) 7 SCC 123 and ***Sheo Raj Singh (deceased) through legal representatives and others vs. Union of India and another***, (2023) 10 SCC 531 and contended that since there is sufficient explanation furnished in the application, the delay should not come in the way while imparting substantial justice between the parties. He further argued that length of delay is no material, acceptability of the explanation is the only criteria. Further, he vehemently argued that the rules of limitation are not meant to destroy the rights of parties. They are meant to see that the parties do not resort to

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dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. In the present case, since the co-owners of the building for which the Commissioner had passed an order of demolition of unauthorized construction and whereafter the Himachal Pradesh State Electricity Board had issued the notices to disconnect the electricity connections, was assailed by the co-owners before the Civil Court, which had protected them and the Himachal Pradesh State Electricity Board was restrained from discontinuing the civic amenities i.e. water and electricity connections of the premises known as Jeet Ram Building, in which the applicant/petitioner also resides, the applicant/petitioner has carved out a sufficient cause for condonation of delay in filing the revision petition.

11. Learned counsel for the non-applicant/respondent has placed reliance upon the judgments passed in ***Digambar's*** and ***Sant Ram's*** cases *(supra)*. As per the judgment in ***Digambar's*** case *(supra)*, the Hon'ble Supreme Court has held that the writ petition filed under Article 226 of the Constitution in the year 1991 against the State of Maharashtra after undue delay of 20 years cannot be entertained. However, in the present case, the delay is not so huge and thus, the decision referred to above is not attracted to the facts of the present case. Similarly, the judgment rendered in ***Sant Ram's*** case

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(supra) is also not attracted for the reason that in the present case, the applicant/petitioner has given the reason that he was under *bonafide* impression that there was no necessity to challenge the judgment dated 24.04.2025 passed by learned Additional District Judge (CBI Court) Shimla (HP) since other co-owners have already actively litigating and the civil Court had protected them. It is only when in the first week of April, 2026, the officers of the respondent visited and threatened him to remove the alleged encroachment, he contacted the counsel and filed the revision petition along with present application.

12. It is settled law that the cases should be decided on merits and not on mere technicalities. The substantial justice should not be pitted against technicalities. The expression sufficient cause should be considered with pragmatism in justice-oriented approach rather than the technical detection of sufficient casuse for explaining every day’s delay. Therefore, keeping in view the sufficient cause made in the application for condonation of delay in filing the revision petition, this Court is of the considered view that same deserves to be allowed.

13. Consequently, keeping in view the above observations, the application for condonation of delay in filing the revision petition is allowed and the delay in filing the revision petition is condoned. The application is accordingly disposed of. Revision petition be registered.

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List for consideration on **08.12.2026.**

(Jiya Lal Bhardwaj)
Judge

17th November, 2026
(Anurag)