IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No.667 of 2026
Date of Decision: 06.11.2026

Pardeep Kumar .....Petitioner

Versus

Satish Kumar ... Respondent

Coram:
Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting? [1]

For the Petitioners: Mr. Panku Choudhary, Advocate.

For the Respondent: Nemo.

Sandeep Sharma, Judge(oral):

Having heard learned counsel for the parties and perused material available on record vis-à-vis reasoning assigned in the impugned order dated 07.09.2026, passed by the learned Additional Principal Judge, Family Court, Dehra, whereby applications under Order IX Rule 7 CPC and Section 5 of the Limitation Act were allowed, this Court is not persuaded to agree with Mr. Panku Choudhary, learned counsel representing the petitioner, that Court below failed to appreciate the facts as well as law while disposing of the applications, rather, this Court finds that Court below, with a view to do substantial justice and having taken note of the fact that main petition for

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

declaration of guardianship was pending adjudication, allowed the applications and posted the matter for hearing on merits.

2. Moreover, this Court finds that fault, if any, in putting in appearance on the given date was that of lawyer engaged by the respondent. No fault can be attributed to the litigant in case the lawyer notices an incorrect date. It is well settled that litigant cannot be made to suffer for any fault committed by his lawyer. In the present case, respondent, who had engaged a lawyer to represent him, failed to put in appearance before the Court below on 09.05.2024, as a result thereof he was proceeded against *ex parte*. However, by filing an application for setting aside the *ex parte* order, respondent was able to satisfy the Court below that his non-appearance, as well as of his lawyer, was neither wilful nor intentional. Accordingly, the Court below, having taken note of the fact that after passing of order dated 28.05.2024, respondent had been appearing on every date of hearing, proceeded to allow the application under Order IX Rule 7 CPC after condoning the delay.

3. In view of the above, this Court finds no illegality or infirmity in the impugned order and as such, the same is upheld. However, having taken note of nature of the litigation, this Court deems it fit to direct Court below to ensure that main petition filed at the instance of the petitioner for declaration of guardianship is

decided expeditiously, preferably within a period of three months from today. Ordered accordingly.

In the aforesaid terms, present petition is disposed of along with pending applications, if any.

(Sandeep Sharma),
Judge

November 06, 2026
(sunil)