

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CM(305/2026) in RFA 7/2026
CM(306/2026.

UNION TERRITORY OF J AND K AND OTHERS.

...Applicant(s)/Petitioner(s)

Through: Mr. Jahingeer Ahmad Dar, Government Advocate with
Mr. Shaila Shameem, Assisting Counsel.

VERSUS

FAROOQ AHMAD DAR.

...Respondent(s)

Through: Mr. Ali Mohammad Dar, Advocate for Caveator.

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE.

ORDER
13.02.2026

01. The respondent-Farooq Ahmad Dar approached the Court of Additional District Judge, Pulwama by filing a civil suit on **File No. 58/N** instituted on **23.09.2021** thereby seeking a money decree for recovery of an amount of **Rs. 1,20,078/-** on account of contract work executed by him, in respect whereof the said amount remained unpaid from the end of the defendants who were the UT of Jammu and Kashmir and its officials.

02. The institution of suit by the respondent had taken place after having first put the defendants on notice under section 80 of the Code of Civil Procedure, 1908, thereby affording the prospective defendants an opportunity of two months to examine his case in the matter of payment of the money being claimed by him for which he was intending to go for a civil suit by putting them on notice.

03. At this initial stage, the would be defendants least bothered to respond to the notice under section 80 of the Code of Civil Procedure, 1908 sent from the respondent's end.

04. Upon suit being instituted, the defendants, through their counsel, appeared and filed written statement not denying the allotment of the work or its execution by the respondent. The only plea which is said to have been pressed into written statement for non-payment of amount was the alleged non-availability of funds.

05. On behalf of the defendants, their standing counsel appeared before the Court below and made a preliminary statement under Order 10 of Code of Civil Procedure, 1908 admitting the liability resting upon the defendants which led the trial court to press into service in terms of Order 12 rule 6 of the Code of Civil Procedure, 1908 decreeing the suit on the basis of such admission.

06. Thus, the fact of decreeing of the suit of the respondent was all along well known to the defendants who upon passing of the decree, became judgment debtors yet it did not occur to any of the defendants in the civil suit to become concerned to challenge the decree by filing a civil first appeal within the time prescribed under the law of limitation which is equally applicable to an ordinary suitor as well as to the State without any exception.

07. The judgment debtors now intend to maintain a civil first appeal against said money decree of the Court of Additional District Judge, Pulwama.

08. However, since the appeal is time-barred as such accompanied with an application- **CM No. 305/2026** thereby seeking condonation of delay of 956 days. The application has been signed by the Executive Engineer Irrigation Division Pulwama (Estate Section) and is supported by an affidavit of the incumbent – Sami-ullah-Naik.

09. In the entire condonation of delay application, no explanation with respect to the delay of 956 days has been furnished. None of the defendants, in particular defendants 2 to 5- all being officers of the Engineering Department, have shown any sufficient cause for such delay. If any of them had suffered loss of salary even for a single day, no one would have spared a day more in approaching the Court by filing a writ petition seeking release of one-day salary withheld, but when it comes to matters concerning Public Exchequer, delay of every hue and description is first allowed to set in without any sense of accountability to law, as if in the name of an application for condonation of delay, the doors of the Courts are meant to be kept always open in favour of the State as well as its officials. There appears to be a misplaced understanding of the law of limitation on the part of the UT of Jammu and Kashmir and its officials, who are now seeking condonation of delay from this Court.

10. The application is found to be factless and frivolous, as such, is **dismissed.**

(RAHUL BHARTI)
JUDGE

SRINAGAR

13.02.2026

Bisma Jan.