



2022:JKLHC-SGR:3177

S.No. 2  
Reg. List

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH**  
**AT SRINAGAR**

CM No. 5751/2023 in  
OWP No. 2190/2017

Ashiq Hussain Dar

...Petitioner/Appellant(s)

Through: Mr. A. Hanan, Advocate

**V/s**

Srinagar Municipal Corporation & Ors.

...Respondent(s)

Through: Mr. Moomin Khan, Advocate

**CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE.**

**ORDER**  
**25.09.2023**

A writ petition OWP No. 2190/2017 came to be dismissed for non-prosecution in terms of order dated 28.06.2022. The petitioner was unaware of the dismissal of said writ petition. Upon coming to know about it, the petitioner come forward with an application being CM No. 5752/2023 for seeking restoration of the writ petition but the application being time barred by 392 days, is accompanied with an application being CM No. 5751/2023 for condonation of delay.

In the application CM No. 5751/2023 for condonation of the delay, a primary reason cited by the petitioner with respect to dismissal of the writ petition is that the counsel who was conducting the case on behalf of the petitioner gave up the practice and about this development the petitioner was not aware. In addition it is also pleaded that the petitioner had fallen



ill, as a result whereof, he had gone outside Jammu and Kashmir for 1023:JKLHC-SGR:3177  
treatment.

On the basis of the mixture of the said two circumstances, the default in appearance on behalf of the petitioner in the writ petition came to take place.

Mr. Moomin Khan, learned counsel appearing on behalf of the respondent/SMC argues that the application is misconceived and based upon frivolous excuse.

Be that as it may, the writ petition which was pending on the docket of this Court since 2017 and that too an admitted one for final hearing in terms of order dated 29.12.2017, the same shall not go in adjudication by default mode and rather deserves adjudication upon merits.

In the interest of justice, this Court is inclined to restore the writ petition by condoning the delay. Delay is thus condoned and writ petition is restored to its original number.

Applications **disposed** of

List the main case on 16<sup>th</sup> October 2023.

(RAHUL BHARTI)  
JUDGE

SRINAGAR  
**25.09.2023**  
"S.Nuzhat"



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