

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

Case:- CM(M) No.60/2026
CM No.2178/2026

Bharat Bushan Gupta

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

Through: Mr. Sunil Sethi, Sr. Advocate with
Mr. Paras Gupta, Advocate

Vs

National Textiles Corporation Ltd.

.....Respondent(s)

Through:

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER
(15.04.2026)

1. The court of Additional District Judge, Jammu, by virtue of its judgment dated **30.11.2022** in a civil suit on file No. **21/Civil of 2004** preferred by the plaintiff/petitioner herein against the defendants therein, decreed the suit thereby directing eviction of the defendants from two suit shops at the ground floor situated at Amar Market Raghunath Bazar, Jammu and also granting a money decree of **Rs. 5,13,336.50/-** towards recovery of arrears of rent along with compensation component.
2. The institution of the suit titled "**Sh. Bharat Bhushan Vs National Textile Corporation and another**" had taken place on **22.11.2004**.
3. In the suit, two defendants appeared and contested the same by filing written statement and also leading evidence from

their respective end but thereafter absented to be set *ex-parte*, leaving to the passing of the judgment dated **30.11.2022**.

4. The petitioner, as decree holder, sought execution of the decree by laying an execution petition dated **19.04.2023** in which the petitioner as decree holder is stated to have been handed over with the vacant possession of two shops thereby satisfying the decree to one aspect leaving the other aspect of money recovery to be executed.

5. From the end of judgment debtors/defendants, an application for setting aside *ex-parte* judgment dated **30.11.2022** came to be filed on **24.02.2023** accompanied with an application for condonation of delay.

6. In the condonation of delay application, it came to be stated that the judgment debtors/defendants came to acquire the knowledge of passing of *ex parte* judgment and decree dated **30.11.2022** on **05.01.2023** upon receiving a legal notice from the counsel of the decree holder/plaintiff whereupon the matter was taken up with the Regional Office, Mumbai leading up to filing of the time barred application for setting aside *ex parte* decree.

7. The judgment debtors/defendants' application for condonation of delay was in pace with the execution petition filed by the decree holder/petitioner herein but by virtue of an order dated **08.08.2024**, the judgment debtors/defendants' application for condonation of delay accompanying application

for setting aside *ex parte* judgment and decree came to be dismissed for non-prosecution.

8. It took more than **seven months** at the end of the judgment debtors/defendants to come to realization that their application for condonation of delay for maintaining application for setting aside *ex parte* judgment and decree has suffered dismissal for non-prosecution leading to filing of a time barred restoration application accompanied with condonation of delay application on **08.03.2025** before the court of Additional District Judge, Jammu which by virtue of an order dated **27.03.2026**, has considered and the delay in filing restoration application has been condoned, meaning thereby the court of Additional District Judge, Jammu has taken up the restoration application for adjudication with respect to dismissal of condonation of delay application accompanying the application for setting aside *ex parte* judgment for non-prosecution

9. This outcome has left the decree holder/petitioner aggrieved to come up with the present petition invoking supervisory jurisdiction of this Court under article 227 of the Constitution of India and also with the application **CM No.59/2026**.

10. Mr. Sunil Sethi, learned Senior Advocate refers to the observations of the court below made in the impugned order to argue that the court of learned Additional District Judge, Jammu has given a premium for every sort of negligence and casualness to be cited by a defaulting party in the matter of

pursuing litigation with due concern and commitment and that is going to add to the burden of litigation in already flooded civil courts locked up with adjudication of civil suits, civil first appeals and investing time in wasteful condonation of delay application.

11. Prima facie case made out.

12. Issue notice to the respondents.

13. Petitioner to furnish registered postal covers within a period of seven (7) days whereupon learned Registrar Judicial, Jammu to sent notice to the respondents.

14. In the meantime, further proceedings in the matter with respect to hearing of the respondent's condonation of delay application with reference to application for setting aside of *ex parte* judgment and decree shall remain stayed.

15. List on **29.05.2026**.

(RAHUL BHARTI)
JUDGE

JAMMU
15.04.2026
Sneha