



IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CMPMO No. 618 of 2025
Decided on : 17.11.2025

Satish Kumar

...Petitioner

Versus

Gurdial Singh

...Respondent

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge

Whether approved for reporting?¹ Yes

For the petitioner : Mr. Munish Datwalia, Advocate.

For the respondent : Ms. Tanu Sharma, Advocate.

Ajay Mohan Goel, Judge (Oral)

By way of this petition, the petitioner has assailed order dated 10.02.2025, passed by learned Senior Civil Judge, Court No.1, District Una, H.P, in terms whereof, application filed by the applicant/plaintiff seeking extension of time for depositing the court fee which was required to be deposited in terms of decree passed on 09.11.2023, in a suit for specific performance stands dismissed.

2. Learned counsel for the petitioner argued that the learned Court below has erred in rejecting the application by

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

not appreciating that as there was a decree passed in favour of the petitioner and as delay in depositing the court fee was bona fide and not intentional, the application deserved to be allowed. He has taken the Court through the contents of the application and submitted that the delay in deposition of the amount was bona fide as the petitioner had gone on a pilgrimage along-with his family and thereafter he fell ill and it is on this count that the shortfall in the court fee could not be made good during the time granted by the Court. He submitted that in these peculiar circumstances, as the order is harsh, the present petition be allowed and the impugned order be set aside.

3. Having heard learned counsel for the petitioner and having perused the order under challenge, this Court is of the considered that in the peculiar facts of this case, the impugned order calls for no interference.

4. Documents appended with the petition demonstrate that the suit for possession by way of a specific performance was decreed by the Trial Court in favour of the petitioner on 09.11.2003. In terms of the decree, the plaintiff was directed to make up the deficient court fee within a period of 30 days from

the date of decree i.e. 09.11.2023. It is a matter of record that the court fee was not deposited within the time granted by the learned Trial Court. An application for extension of time to deposit the deficient court fee was filed, which is dated 06.05.2024, copy whereof is appended with the petition as Annexure P-3. It was mentioned in the application that in terms of the judgment passed by the Court, the deficient court fee was to be made good within 30 days from the date of judgment. Counsel of the applicant came to know about the said direction when he received the certified copy of the judgment and thereafter the counsel tried to inform this fact to the applicant but could not contact him as the applicant had gone on a pilgrimage of two months since 03.12.2023. After coming back from the pilgrimage, applicant suffered viral infection, cough and fever and after recovery he could contact his counsel about a week back, before the filing of the application and thereafter, the application was being filed for extension of time to tender the deficient court fee.

5. Along-with the application, no document has been appended or was appended to demonstrate that indeed the

petitioner had gone for a pilgrimage of two months since the third week of December, 2023 and that after coming back, he suffered viral infection, cough and fever, as is alleged in the application. Therefore, these bald assertions made in the application, are not supported by any document on record. Besides this, the photocopy of the judgment and decree, which is appended with the petition as Annexure P-2, demonstrates that the copy of the same was applied by the counsel on 17.11.2023 and the same was prepared on 6.12.2023, though received on 14.12.2023. Even from the date of the preparation of the judgment and decree, there was enough time, both with the counsel and the petitioner, to inform and comply with the order of making good the court fee but the same was not done.

6. Learned Trial Court dismissed the application for extension of time by observing that in terms of the law declared by the Hon'ble Supreme Court of India, such indulgence could be shown only if a party could demonstrate no negligence on its part, whereas, in the case in hand, in the absence of any justifiable cause or documentary proof for the delay, the Court is not to exercise its discretion in favour of the applicant.

7. This Court concurs with the findings returned by the learned Trial Court for the reason that the application filed for extension of time, as already observed hereinabove, though contains a story but the same is not substantiated by any document on record and this demonstrates that indeed there was negligence on the part of the petitioner to comply with the judgment that was passed by the Court.

8. Besides this, another thing which is weighing with this Court in not showing any indulgence in favour of the petitioner is that the impugned order itself was passed on 10.02.2025 and this order passed on 10.02.2025, stands assailed before this Court under Article 227 of the Constitution of India, again after seven months i.e. on 23.09.2025. There is no explanation given in this petition as to why this delay has occurred in assailing the order that was passed by the Trial Court, which demonstrates that not only there was negligence on the part of the petitioner in complying with the order that was passed by the Learned Trial Court while decreeing the truth but he was again negligent while assailing the order passed by the Trial Court in terms whereof his application for extension of time

was dismissed.

9. Therefore, in light of the above observations, as this Court sees no reason to interfere with the impugned order i.e. order dated 10.02.2025, passed by learned Senior Civil Judge, Court No.1, District Una, H.P., this petition is dismissed. Pending miscellaneous application(s), if any, also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

November 17, 2025

(Shivank Thakur)

High Court