

Hira Lal @ Heera Lal vs Board Of Revenue, U.P. Lko. Thru. ... on 3 March, 2025

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Bench: Saurabh Lavania

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:12556

Court No. - 12

Case :- CIVIL MISC REVIEW APPLICATION DEFECTIVE No. - 31 of 2025

Applicant :- Hira Lal @ Heera Lal

Opposite Party :- Board Of Revenue, U.P. Lko. Thru. Chairman And Another

Counsel for Applicant :- Abhisht Saran,Rahul Kumar Kashyap

Hon'ble Saurabh Lavania,J.

This review application in relation to the judgment and order dated 02.01.2024 dismissing the Writ-B No. 1002681 of 2007 (Hira Lal vs. Board of Revenue and others) was instituted in the Registry of this Court on 12.02.2025 along with an application seeking condonation of delay which according to office note is of 377 days.

The applicant has tried to explain the delay of 377 days in the affidavit filed in support of the application seeking condonation of delay. The relevant paras of the said affidavit are extracted hereinbelow:-

"2. That the intimation regarding the judgment passed by the Hon'ble High Court dated 02.01.2024, dismissing the writ petition concerned with present application, was telephonically conveyed to the local counsel of the sole-applicant/appellant, who use to accompany the sole-applicant/appellant every time during the pendency of the case in High Court, as the applicant was only in touch with his High Court Counsel at

Lucknow through his local counsel from Malihabad.

3. That the deponent on 03.02.2025, came to meet his High Court counsel at Lucknow, at his residence, during Basant Panchami holidays and enquired about the status of the case and to the utter shock and surprise of the counsel, the deponent was totally unaware and unknown regarding the judgment and order passed by the Hon'ble High Court dated 02.01.2024, in spite of the information and intimation given by the counsel for the applicant/petitioner to his local counsel at Malihabad.

4. That during the conversation, the deponent revealed that the deponent/sole-applicant suffered from Acute asthma/Bronchitis hypertension and other critical illness relating to high blood pressure and blood sugar shoot-up resulting in the stiffening of the blood vessels resulting into diabetes and thus, got bed-ridden and during the same illness only he got attacked by a serious eyes problem due to high blood pressure and blood sugar levels, which also added in the numbness of limbs in body and lastly also got one of his eyes visually impaired. Thus, the petitioner failed to remain in touch with his counsel at High Court. The deponent was running from hospital to hospital in and out of Lucknow, for his treatment, as the sole-applicant /appellant was diagnosed with high levels of blood sugar and blood pressure and was being taken care of his illness and medicines, this resulted in him falling short and tight monetary conditions and due to paucity of funds after getting discharged, firstly, he took recommended complete bedrest, hence due to this, most of the time the sole applicant/deponent remained away from their case and also lost contact with his local counsel at Malihabad, Sri Saadiq Ali Advocate and the present counsel conducting his case at High Court, Lucknow, and further also failed to take note of the regular course of action taking place in the case in High Court.

5. That the deponent/applicant also discloses that as he is more than 65 years of age, apart from being suffering from asthma, bronchitis, hypertension, blood pressure and Blood Sugar fluctuation type illness, he is also facing partial fading memory loss or memory flashes, presently since the year 2022-23, which got aggravated in the year 2024 after month of June, and lastly in month of august till November remained under treatment of Dr. Firoz Alam of Bharat Hospital at Rahimabad, he is suffering from acute loss of eye sight from his left eye also an additional side effect of abovementioned disease, which restricted the deponent/sole- applicant/petitioner to bed only, he is also facing problems in recalling even minutest details of his case and about his local counsel at Malihabad, "Sri Saadiq Ali - Advocate", hence, the deponent was unable to contact his local counsel earlier, although now deceased, but when somehow he managed his address from his acquaintances and then went to meet him at his home, but to his utter shock, he was informed that the local counsel at Malihabad has already got expired in the year 2017.

6. That the deponent after many visits was able to find the clerk of the Local Counsel at Malihabad Tehsil and then somehow he arranged the information/address

regarding the High Court Counsel at Lucknow from the files kept at deceased counsel's chamber and then the deponent immediately came to Lucknow to meet him and enquire about the case proceedings, when the deponent met his counsel, he immediately informed the deponent about the order dated 02.01.2024 passed in Writ Petition bearing W.P. No. 2681 of 2007 (M/S) Uttar Pradesh Heera Lal Vs. Board of Revenue, Lucknow and also revealed that many attempts were made to contact the local Counsel at Malihabad, "Advocate Late Saadiq Ali", in the case but all in vain for some reasons, he remained uncontacted and later the news of his death got acknowledged through his clerk, hence, has not applied for the certified copy of the order. after getting the whole information the deponent/legal heir of the applicant/appellant sought time to inform the same to the sole- applicant/appellant.

7. That on 26.01.2025, the deponent came to Lucknow and met his counsel and informed that as the sole-applicant/appellant's condition being very bad due to illness in year 2024 and then he requested the counsel at high court to move a Review Application against the order dated 02.01.2024, else the court below was also adamant upon deciding his another case pertaining to house pending before the Court of Civil Judge (J.D.) Haveli. Hence, the fear arose in the mind and applicant/petitioner and he started enquiry of case proceedings pending before Hon'ble Court Lucknow. After getting the information about the case, the deponent promised to revert soon after arranging the required expenses for the filing of the present Review Case.

8. That on 03.02.2025, the deponent telephonically contacted the counsel for sole-applicant/appellant and informed about successful arrangement of the funds for the case and asked for the day to come for preparation of the Review Application. Then immediately the counsel for the applicant/appellant informed him and asked him to come for the preparation of the same.

9. That on 08.02.2025, the deponent came to Lucknow and contacted his counsel in his chamber and deposited some part-payment in the case, and the counsel for the sole-applicant/petitioner applied for the certified copy of the order dated 02.01.2024 passed by the Hon'ble High Court in WRIB No. 1002681/2007, Hira Lal Vs. Board of Revenue and thereafter the instant review application was drafted and prepared, which is being filed today.

10. That the delay in filing the instant review application was caused due to old age ailments along with Bronchitis/Asthma, blood pressure and Blood sugar etc.; as mentioned above and as being suffering from lack of knowledge and untimely demise of the local counsel at Malihabad and most importantly the deteriorating health condition of the sole-applicant/petitioner and his confinement to bed, therefore, after he regained his health, he initiated all legal proceedings in the instant case on his behalf. The delay caused is Bonafide, unintentional and non-deliberate, hence, deserves to be condoned. The Annexure No. 1 is the Medical Certificate issued in the

name of Hira Lal regarding his illness and bed rest prescribed issued by the Hospital."

Upon due consideration of the above extracted paras, this Court finds that delay has not been explained for the following reasons:-

(i) The judgment and order dated 02.01.2024 was duly communicated to the local counsel of the applicant with whom the applicant was in touch meaning thereby the local counsel conveyed the fate of petition to the applicant within a reasonable time and therefore the explanation with regard to period between the date of judgment under review i.e. 02.01.2024 to 03.02.2025 on which date according to the para 3 the applicant met his counsel at Lucknow, therefore, the delay has not been properly explained.

(ii) To support the averment related to acute asthma/bronchitis/hypertension and other critical illness relating to high blood pressure, blood sugar etc. relevant documents related to treatment have not been filed and the certificate of Bharat Hospital dated 09.02.2025 filed on record does not indicate that the applicant was bedridden for a long period. This also shows that delay for period which starts from the date of judgment dated 02.01.2024 upto preparation of affidavit has not been explained properly.

For the aforesaid reasons, this Court finds no force in the application seeking condonation of delay. It is hereby rejected. Consequently, the review application is also dismissed.

Order Date :- 3.3.2025/Renu