HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Reserved on 29 .10.2026
Pronounced on 06.11.2026
Uploaded on 06.11.2026

Whether the operative part or full judgment is pronounced: Full

RFA No. 21/2026

M/s Des Raj Om Parkash th. Sanjeev Gupta

...Petitioner /Appellant(s)

Through: - Ms. Meenakshi Slathia Kour, Advocate &
Mr. Shubham Singh, Advocate

vs.

M/s 17 Miles Hotel Restaurant and others **...Respondent(s)**

Through: - Mr. R. K. Jain, Sr. Advocate with
Mr. Pramvir Singh, Advocate

CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE
HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

Sanjay Dhar-J

1. Through the medium of the present appeal, the appellant has challenged the judgment and decree dated 28.02.2026 passed by the learned Commercial Court, Jammu (hereinafter referred to as the "trial court"), whereby the suit filed by the appellant has been dismissed on the ground that the same is barred by limitation.

2. It appears that the appellant/plaintiff had filed a suit against the respondents/defendants before the learned trial court, seeking recovery of an amount of Rs. 3,73,477/- along with interest at the rate of 12% per annum for the period from 01.03.2020 to 01.02.2023. The suit was

instituted before the trial court on 03.06.2023. The recovery of the aforesaid amount was sought in respect of the price of goods supplied to the defendants.

3. It seems that the defendants did not put in their appearance before the trial court. They were, accordingly, set ex parte. The plaintiff was directed to produce ex parte evidence in support of its case. After completion of the plaintiff's evidence, the case was set down for final hearing. At that stage, the learned trial court has, after noticing that the last delivery of goods was made by the plaintiff on 01.03.2020 and the last payment was made by the defendants on 24.02.2020, observed that the suit was required to be filed on or before 28.02.2023. The trial court held that because the suit had been filed on 03.06.2023, as such, the same is barred by limitation. Accordingly, the learned trial court dismissed the suit being barred by limitation.

4. The appellant/plaintiff has challenged the impugned judgment and decree passed by the learned trial court on the grounds that the transactions between the parties were commercial in nature and involved a running account, which the learned trial court has failed to appreciate. It has been submitted that, since there was a running and mutual account, the period of limitation kept on extending on the basis of the last acknowledged balance. It has further been contended that the learned trial court did not take into consideration the subsequent acknowledgments. It has also been contended that the learned trial court failed to extend the benefit of the orders passed by the Supreme Court in Suo Motu Writ Petition (Civil) No. 3 of 2020 (In Re: Cognizance for Extension of Limitation). According to the plaintiff, if the period from

01.03.2020 to 28.02.2022 is excluded while computing the period of limitation, the suit would be within the prescribed period of limitation.

5. We have heard learned counsel for the parties. We have also gone through the grounds of appeal and the impugned judgment passed by the learned trial court.

6. During the course of arguments, learned counsel for the appellant has raised only one ground to assail the impugned judgment and decree. According to learned counsel, the period from 01.03.2020 to 28.02.2022 is liable to be excluded while computing the period of limitation in view of the directions passed by the Supreme Court in Suo Motu Writ Petition (Civil) No. 3 of 2020 (In Re: Cognizance for Extension of Limitation). It has been submitted that, if the aforesaid period is excluded, the suit filed by the plaintiff would be within the prescribed period of limitation.

7. In the above context, if we have a look at the orders passed by the Supreme Court in Suo Motu Writ Petition (Civil) No. 3 of 2020 (In Re: Cognizance for Extension of Limitation), it is revealed that, on 23.03.2020, the Supreme Court took suo motu cognizance of the situation arising out of the COVID-19 pandemic. On the said date, the Supreme Court, while exercising its powers under Article 142, read with Article 141 of the Constitution, ordered that the period of limitation in all proceedings, irrespective of the period of limitation prescribed under general or special laws, whether condonable or not, shall stand extended with effect from 15.03.2020 until further orders. The said order was extended from time to time and, finally, on 10.01.2022, the following directions were issued:

"I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 08.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special law in respect of all judicial or quasi judicial proceedings.

II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.

III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.

IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Section 23(4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings."

8. From a plain reading of the aforesaid directions of the Supreme Court, it is clear that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purpose of limitation and that the balance period of limitation remaining shall become available with effect from 01.03.2022.

The directions further provide that, in cases where the period of limitation would have expired during the period from 15.03.2020 to 28.02.2022, all persons shall be entitled to a limitation period of 90 days from 01.03.2022, irrespective of the actual balance period of limitation remaining. However, if the actual balance period of limitation remaining with effect from 01.03.2022 is greater than 90 days, the longer period shall apply. From this, it is clear that, in a case where the period of limitation expires between 15.03.2020 and 28.02.2022, a period of 90 days for filing the proceedings would be available from 01.03.2022. However, in a case where the period of limitation expires after 28.02.2022, the balance period of limitation or 90 days, whichever is greater, would apply. The purport of the order of the Supreme Court is not that, even in a case where the period of limitation expires beyond 90 days after 28.02.2022, the entire period from 15.03.2020 till 28.02.2022 is to be excluded.

9. Turning to the facts of the present case, it is an undisputed fact that the last supply of goods was made by the plaintiff to the defendants on 01.03.2020 and the last payment was made by the defendants to the plaintiff on 24.02.2020. As per Article 14 of the Limitation Act, the suit was required to be filed within three years of the last payment made or the goods delivered. Therefore, the period of limitation for filing the suit expired on 28.02.2023, which is well beyond 90 days from 28.02.2022. Thus, the period of limitation available to the plaintiff to file the suit was upto 28.02.2023 and not beyond it. However, in the instant case, the suit was filed on 03.06.2023, which was well beyond the prescribed period of limitation. The appellant/plaintiff cannot claim exclusion of the period

from 01.03.2020 to 28.02.2022 on the strength of the order passed by the Supreme Court in Suo Motu Writ Petition (Civil) No. 3 of 2020 (In Re: Cognizance for Extension of Limitation). The contention raised by the appellant in this regard is wholly misconceived and cannot be accepted.

10. For what has been discussed hereinbefore, we do not find any ground to interfere with the impugned judgment and decree passed by the learned trial court. The appeal lacks merit and is, accordingly, dismissed.

(SANJAY DHAR)
JUDGE

(SINDHU SHARMA)
JUDGE

Jammu:
06.11.2026
Karam Chand

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No

HIGH COURT
JAMMU & KASHMIR AND LADAKH