HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

CM No. 3228/2026 in
OWP No. 796/2005

Reserved on: 30.10.2026
Pronounced on: 04.11.2026
Uploaded on: 04.11.2026
Operative part or full judgment - Full

Dharmarth Trust J and K …Appellant(s)

Through: Mr. R S Thakur, Sr. Adv with
Mr. Arun Singh, Advocate.

Vs.

Industrial Tribunal & Anr. …Respondent(s)

Through: None.

CORAM: HON'BLE MR. JUSTICE M. A.CHOWDHARY, JUDGE

JUDGMENT

1. This application has been moved by the applicant/ petitioner for recalling the order passed by this court on 19.12.2025 in OWP No. 796/2005, for the reason that long before the date of judgment, the respondent no. 2-Chand Ram had expired, and that his legal heirs were not brought on record, as such, the petition has become abated, and the dismissal of the petition by the judgment, is, therefore *non est* in the eyes of law and deserves to be recalled.

2. Learned senior counsel appearing for the applicant submits that the respondent no. 2-Chand Ram was *ex parte* and the main question, as to the status of the trust, could not

be decided with sufficient material, without any thorough submissions on the same, and further submits that without filing of review petition, the applicant has filed this application for recalling the judgment in question, having been passed under a jurisdictional defect, as the respondent-Chand Ram being ex parte had not appeared in the case for years together and was not before the Court to contend that the petitioner/trust was an Industry; that the judgment in question was not announced in presence of the writ petitioner and could not be noticed online for weeks and after making a frantic effort to get at the record of the death of the respondent-Chand Ram, the applicant secured the same on 11.04.2026 and it was prayed that the application be allowed and the judgment dated 19.12.2025 passed in OWP No. 796/2005 be recalled.

3. It is interesting to note with concern that in Paragraph no.3 (iii) of the application that the judgment was reserved and delivered, after a long period of several months, without proper updation and hearing, as such, the same is liable not to be allowed to stay intact, as this assertion on behalf of the applicant/petitioner casts aspersions on the working of this court. It may not be out of place to mention, as is borne out from the judgment/order dated 19.12.2025 itself, that the judgment/order was reserved on 04.12.2025 and was delivered on 19.12.2025, within a period of 15 days. The applicant has, thus, made a factual and baseless allegation in its application. The application has been drafted by Mr. Vasharan Thakur,

Advocate, who is stated to be not only the chamber-mate but brother of the appearing counsel Mr. Ashwani Thakur, Advocate, and such an assertion smacks of the professional misconduct on his part. However, instead of proceeding further in this direction, this Court restrains itself, leaving it to be introspected by the counsel, with regard to his professional conduct.

4. It has been, vehemently, argued by the learned senior counsel appearing for the petitioner that the order, sought to be recalled, had been passed in ignorance of the important facet of invalidity of the order, as in the writ petition, having been heard in ex parte, the judgment/order can be said to have been passed in violation of principles of natural justice, as the petitioner-Trust had not been allowed to participate in the proceedings before it by the Court, as such, the judgment/order is a nullity, not to be taken into account and that this court had not considered the reach and extent of Section 36 of the Industrial Disputes Act and the far-reaching consequences for the Trust, as to its status, being dealt with by the Tribunal perfunctory, without adequate, sufficient and credible evidence and material, having been ignored, which vitiates the judgment on account of jurisdictional defect entrenched in superficiality and casualness.

5. On a consideration of the matter, it appears that the applicant had challenged the order dated 09.09.2003 passed by the J&K Industrial Tribunal, whereby, the claimant-Chand

Ram, on a reference made by the Govt. of Jammu & Kashmir, vide SRO No. 13 dated 21.01.2003, held him entitled to receive back wages to the extent of 50%, from the date of his termination, till passing of the award payable by the applicant-J&K Dharmarth Trust.

6. After filing of OWP No. 796/2005 before this court, the respondent no.2 was served, who appeared through Advocate Raghu Mehta, however, later, for continued absence, the respondent was proceeded ex parte as contended by the applicant in its application, as well. After hearing the petitioner in ex parte, the petition was dismissed and the order impugned therein, having been passed by the J&K Industrial Tribunal, was upheld. It was never the case of the applicant/petitioner, till the final disposal of the main petition and filing of this application, that the respondent no.2 had passed away during the pendency of this petition, and had it been so, the petitioner would have been within its legal right not only to apprise this court about the death of the respondent no.2, but the application for bringing on record his legal heirs could also have been moved. No such effort was made on the part of the petitioner, at any point of time, till the main petition was heard ex parte and decided.

7. The applicant, after passing of the judgment, seems to be aggrieved of the judgment, which either could have been assailed in an appeal or if there was any error apparent on the face of the record in the judgment, the same could have been

sought to be reviewed by the same court. Instead of invoking the available remedy, the applicant has chosen a novel method to move this application seeking recalling of the judgment/order.

8. Even if the judgment had been passed after the demise of the contesting respondent, against whom *ex parte* proceedings had been initiated, the applicant was well within its rights to file the appeal against legal heirs of the respondent no. 2, however, the applicant has taken no pains to avail that remedy and instead of that has moved this application for recalling of the judgment/order pointing fingers against the working of this court, to have passed the judgment after reserving the matter for months together, against facts, as the judgment was pronounced within a period of fifteen days from the date it was reserved.

9. The application is, thus, found to have been grossly misconceived and is liable to be rejected.

10. Viewed thus, CM No. 3228/2026 is **dismissed**. No order as to costs.

(M.A.CHOWDHARY)
JUDGE

Jammu
04.11.2026
Raj kumar

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

Naresh Kumar
2026.11.04 16:27
I attest to the accuracy and
integrity of this document