

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION st. NO.21101 OF 2016
IN
REVIEW PETITION ST. NO.21098 OF 2016
IN
FIRST APPEAL NO.1292 OF 2013

Pramila Sumansingh Thakur ... Applicant

Vs.

Shir Sudhakar Baburao Lagad & Ors. ... Respondents

Applicant present in person
Ms.Pramila S. Thakur for Respondent Nos.1 & 2
Mr.M.G. Patil for Resp. No.3

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: DECEMBER 5, 2016
(IN CHAMBERS)

P.C.:

1. This Civil Application is filed for condonation of delay of 209 days. The learned Counsel for Respondent Nos.1 and 2 raised an objection on the maintainability of the review petition. She submitted that the Supreme Court by its order dated 15.2.2016 has dismissed the petition and therefore, the order of this Court cannot be reviewed. She has also opposed the application for delay as no sufficient ground is made out.

2. It is submitted by the applicant appearing in person that Summer Vacation was going on and hence, the file was not accepted and that I was

sitting in Division Bench from June onwards. So also, the matter before the Supreme Court was going on and hence, the delay is caused. On the point of maintainability, she relied on the judgment of the Supreme Court in the case of **Kunhayammed & Ors. vs. State of Kerala & Anr.**¹ The Supreme Court while dismissing the Special leave Petition has passed the following order:

“We do not find any merit in this petition. The Special Leave Petition accordingly dismissed”.

3. The order of the High Court was before the 3–Judge Bench of the Supreme Court. While dismissing the Special Leave Petition and considering the scope of Article 136 of the Constitution of India, the Supreme Court held as follows:

“...iv) An order refusing special leave to appeal may be a non-speaking order or a speaking one. In either case it does not attract the doctrine of merger. An order refusing special leave to appeal does not stand substituted in place of the order under challenge. All that it means is that the Court was not inclined to exercise its discretion so as to allow the appeal being filed.”

4. In view of this, as the case is squarely covered under the ratio laid down in **Kunhayammed & Ors. (supra)**, I hold that this review petition is maintainable, so also the reason given by the petitioner for delay caused is sufficient and the delay can be condoned. Hence, the delay of 209 days is hereby condoned. Civil Application is allowed accordingly.

1 AIR 2000 SC 2587

5. Review petition be numbered and listed for hearing on 22.12.2016
@ 2.30pm.

(MRS.MRIDULA BHATKAR, J.)