

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO. 676 OF 2018  
IN  
REVIEW PETITION (L) NO. 4 OF 2018  
IN  
ARBITRATION PETITION NO. 803 OF 2017**

M/s. Ritz Fashions & Ors. .. Applicant

v/s.

M/s Bhagyashri Textiles Pvt. Ltd. .. Respondent

Mrs. Punita Arora i/b M/s. Arora & Co. for the applicant  
Mr. Anil Agarwal for the respondent

**CORAM : M.S. SANKLECHA, J.**

**DATED : 25<sup>th</sup> APRIL, 2018  
(In Chamber at 2.45 p.m.)**

**PC. :**

1. This Notice of Motion seeks condonation of 80 days delay in filing the accompanying Review Petition, seeking a review of the order dated 2<sup>nd</sup> November, 2017 passed by this Court.

2. The affidavit in support of the motion sets out the reasons for the delay. It points out that after the order dated 2<sup>nd</sup> November, 2017 was passed, the applicant had on 10<sup>th</sup> January, 2018 taken out an application for speaking to the minutes of order 2<sup>nd</sup> November, 2017.

The application for speaking to the minutes of the order was rejected on 9<sup>th</sup> February, 2018. Thereafter, the applicant filed the review petition on 21<sup>st</sup> February, 2018. However, along with the review petition, the Notice of Motion for condonation of delay had remained to be filed. Although, it is stated in the affidavit that the review petition itself contain explanation for the delay in moving the petition. The affidavit further states that the motion was not filed along with the review petition due to the inadvertence of the advocate's clerk. It was in the aforesaid circumstances that it is prayed that the delay in filing the review application be condoned.

3. Mr. Agarwal, learned Counsel appearing for the respondent strongly opposes the condonation application. It is his submission that the deponent of the affidavit in support states that he is a layman and, therefore, was not aware of the practice of requiring to file a notice of motion with an affidavit for condonation of delay along with the Review Petition. This, he submits is not called for, as the application in support of the motion was represented by an advocate. It is also submitted by him that affidavit in support puts the blame upon the clerk of the advocate for not having filed the motion. This without the clerk of the advocate having filed any affidavit owning the mistake on

his part. In these circumstances, it is submitted that the application is not bonafide and ought to be rejected.

4. On perusal of the affidavit in support, I find that the reasons for delay in moving the review petition was that the petitioner was prosecuting the application for speaking to the minutes of the order, which came to be rejected by this Court on 9<sup>th</sup> February, 2018. The affidavit in support states that he is a layman and, therefore, is not aware of the procedure of filing the notice of motion along with the review petition. Thus, he could not invite the attention to the above lapse to his advocate or her clerk. So far as the other objection with regard to the mistake of the clerk not being supported by his affidavit, I am of the view that in the fact and circumstances of the facts stated in the affidavit in support, the cause for delay has even otherwise been sufficiently explained.

5. In the above circumstances, Notice of Motion is allowed in terms of prayer clause (a).

**(M.S. SANKLECHA, J.)**