

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****NOTICE OF MOTION NO.488 OF 2018****IN****REVIEW PETITION (L) NO.77 OF 2018****IN****WRIT PETITION NO.1808 OF 2018**

Bombay Chamber of Commerce And Industry

...Petitioner

vs

Pragzna Pujara And Anr.

...Respondents

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Mr. M.D. Nagle, i/b. Mr. V.M. Parkar, for the Applicant/Review
Petitioner.

Ms. Pragzna Pujara, Respondent No.1 present in person.

Mr. Varun Shankar, i/b. Cyril Amarchand Mangaldas, for the Original
Respondent in WP/1808/2018.

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CORAM : S.C. GUPTE, J.**DATED : 1 FEBRUARY, 2019****P.C. :**

. Heard learned Counsel for the Applicant, who is the Review
Petitioner in the present matter, as also the Respondent to the
application, who was the original writ petitioner. The review petition
seeks review of an order passed in the original writ petition. The notice
of motion is for condonation of a delay of 46 days in presenting the
review petition.

2. The original Petitioner, who appears in person, objects to

the application being considered at this stage. She submits that since the notice of motion seeks condonation of delay in filing a review petition, this Court will have to consider whether the review petition itself is maintainable in law before considering condonation application. She cites a judgment of this Court in the case of **Nivruti G. Ahire vs. State of Maharashtra**¹. In the case of **Nivruti Ahire**, the Division Bench of our Court was of the view that it was a clear case of total negligence and absence of disclosure of sufficient cause for condonation of delay in filing the application for review. After thus finding want of merit in the application for condonation of delay, the Court also broadly considered the aspect of maintainability of the review petition. The Court was of the view that the order under review was challenged by one of the parties to it by preferring a special leave petition before the Supreme Court and that petition was rejected by the Court. Only thereafter, the Review Petitioner had presented his application for review. The Court considered the Supreme Court order on the SLP, which showed that Counsel for the Petitioner was heard by the Court, and after hearing him, no reason was found to interfere with the order of the High Court and, in the premises, the SLP was dismissed. The Court was of the view that the Supreme Court order disclosed the opinion expressed by the Court that there was no reason to interfere with the order passed by this Court; and once the Supreme Court opined that it had found no reason to interfere with the order of this Court, to entertain an application for review of that order would amount to judicial indiscipline. On this basis, our Court observed that the review application itself would be not maintainable in law and, therefore, no question of condonation of any delay in filing

¹ 2007(109) Bom LR 1302, 2007 (4) MHLJ 284

such application would arise. Relying on the order passed by our Court in **Nivruti Ahire**, it cannot be contended that in every case where an application for condonation of delay is made, the Court is bound to consider the merits of the review petition and, thereafter, or simultaneously, for that matter, consider the question of condonation. A review petition, which is filed beyond the period of limitation, would not be registered by the Registry unless the delay is condoned by a judicial order. That is why the present notice of motion for condonation of delay is taken out as a pre-requisite for registering the review petition. If and when the review petition is registered after condonation of delay, it will be considered at the stage of admission and if the Court is of the view that prima facie a review is merited, the Court may admit the review petition and hear it finally.

3. In that view of the matter, and for the reasons stated in the affidavit in support of the notice of motion, the delay is condoned. Office may register the review petition. A copy of the review petition be served on the original Review Petitioner as also the original Respondent.

4. The review petition to come up for admission on 28 February 2019.

(**S.C. GUPTE, J.**)