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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION***

CIVIL APPLICATION NO.1590 OF 2016

in

WRIT PETITION NO. 3017 OF 2015

Mr. Baban Yamaji Bhagat & Ors. ... Applicants/Petitioners.

V/s.

Mr. Deepak Mahadu Bhagat. ... Respondent.

Mr. R.G. Shatalwar i/b. Prashant More for the
Applicants/Petitioners.

Mr. Madhav Surve for the Respondent.

CORAM : N.M. Jamdar, J.

14 October, 2016.

Oral Order :-

This application is taken out for restoration of the Writ Petition which was dismissed for default on 9 June 2016. The learned Counsel for the Respondent points out that what is under challenge is the order passed by the learned District Judge in not condoning delay in filing the First Appeal and therefore, the appropriate remedy as per the decision of the Apex Court in the case of *Shyam Sundar Sarma v/s. Pannalal Jaiswal and Ors.* Reported in *2005(1) SCC 436* is to file a Second Appeal.

2. This statement is correct. Therefore, there is no purpose served in allowing the application and restoring the Writ Petition as substantive remedy in the form of Second Appeal is available to the Petitioners. The Civil Application is accordingly disposed of.

(N.M. Jamdar, J.)