

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

**NOTICE OF MOTION NO. 2817 OF 2016
IN
SUIT NO. 1673 OF 1983**

Shantilal Pyarchand Jain & Ors. .. Applicants/Plaintiffs

In the matter between :

Shantilal Pyarchand Jain & Ors. .. Plaintiffs
Vs.
Kanjibhai Gopalji & Ors. .. Defendants

Mr.Sameer Logade i/b A.S. Malvankar for applicants/plaintiffs.

None for defendants.

**CORAM : K.R.SHRIRAM, J.
DATE : 22ND DECEMBER, 2016**

P.C.

1 This notice of motion is for restoration of the suit that came to be dismissed for default by an order dated 4th September 2009. This notice of motion has been taken out more than seven years after the suit came to be dismissed. There is no reason whatsoever given in the affidavit in support as to why it took them seven years to apply, save and except stating I was also not attentive in the said matter. In fact, the Receiver had been appointed who was collecting royalty for the plaintiff. It should also be noted that in the order dated 4th September 2009, it is mentioned as under :

In the order passed on 2nd April 2008, it was indicated that plaintiffs should take necessary steps to proceed with the suit within four weeks or else the Court would be constrained to dismiss the suit. Despite this time being granted in the matter, nothing was done for more than a year. The matter appeared on 20th April 2009 but none was present before this Court. In these circumstances, the suit is dismissed for want of prosecution.

2 In the circumstances, I am not inclined to condone the delay and restore the suit as prayed.

3 The notice of motion dismissed.

(K.R. SHRIRAM, J.)