

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

WRIT PETITION NO. 749 OF 2017

Kamal Gajanam Kumar and Ors

..Petitioners.

Vs

Shri Khandu Baburao Kumar and
Ors.

.. Respondents

Mr. Uday B. Nighot. , Advocates for Petitioners.

CORAM : R.G.KETKAR,J.

DATE : 20/01/2017

PC:

1. Not on Board. At the request of Mr. Nighot, taken up in production board. . Heard Mr. U.B.Nighot, learned counsel for the petitioners.

2. By this Petition under Article 227 of the Constitution of India, the petitioners have challenged order dated 21.8.2016 passed by the learned trial Judge. By that order, the learned trial Judge dismissed application Exhibit-62 in Regular Civil Suit No. 96 of 2010 in default, for amending the plaint. As the plaintiff has equally efficacious alternate statutory remedy of filing application for restoration of that application, this Petition cannot be entertained. Hence, Petition is dismissed as not maintainable, reserving liberty to the plaintiff to file application for restoration. If such application is filed within two weeks from today, the time spent by the petitioners in prosecuting this petition from

21.12.2016 till today shall be excluded. It is made clear that I have not examined merits of the case. Order accordingly.

(R.G.KETKAR, J.)