

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**WRIT PETITION NO. 6691 OF 2015**

M/s. Khatri Enterprises

(through its partners) and Others

..Petitioners

Vs.

Shri. Undrya alias Undryu Krishna Gavli

and Others

..Respondents

Mr. Chintan Shah I/b Sandesh Patil, for the Petitioners.

None for the Respondents.

CORAM :- **B.P.COLABAWALLA, J.**  
DATE :- **DECEMBER 7, 2018.**

**P. C.:**

This Writ Petition challenges the order passed by the Trial Court dated 5<sup>th</sup> December, 2014 below Exhibit-47 in Regular Civil Suit No. 124 of 2010. Exhibit-47 was an application filed by the Original Plaintiff for amendment of the plaint. For the reasons stated in the impugned order, this amendment application was allowed. Being aggrieved by this order, the present Petition has been filed.

2           After hearing the learned counsel appearing on behalf of the Petitioner, I do not think that it is necessary to entertain this Writ Petition at this stage. Section 105 of the Code of Civil Procedure, 1908 clearly provides that where a decree is appealed from, any error, defect or irregularity in any order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal. In other words, if the Defendants (the Petitioners herein) suffer a decree, they will always be entitled to challenge the order impugned herein when they challenge the final decree.

3           This being the case, the Writ Petition need not be entertained and is accordingly dismissed.

4           It is made clear that I have not opined on the merits of the case.

**(B. P. COLABAWALLA, J.)**