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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

I.A. 2-4 OF 2008

IN

CIVIL APPEAL No. 6685 OF 1999

V.SUMATIBEN MAGANLAL MANANI ... Appellant(s)

Versus

UTTAMCHAND KASHIPRASAD SHAH AND ANR. ... Respondent(s)

ORDER

IA 2, is for restoration of C.A.No.6685 of 1999, which had  
been dismissed on 2<sup>nd</sup> May, 2006, on the ground that it had abated.

IA 3, is for substitution of the heirs of the sole appellant,  
V.Sumatiben Maganlal Manani Uttamchand Kashiprasad Shah.

IA 4 of 2007, is for condonation of 1140 days' delay in making  
the substitution application.

Having heard learned counsel for the respondent and the  
applicant for substitution and having perused the counter affidavit  
filed on behalf of the respondents, we are of the view that the  
applications should be allowed in order to avoid multiplicity of  
proceedings and in the interest of justice. We, accordingly, allow  
the same and set aside the abatement recorded and direct the  
restoration of the appeal to its original file.  
C.A.6685/99

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We also allow the application for substitution of the legal  
heirs of the sole appellant. Let necessary amendments be made in  
the cause title.

This order is being passed subject to the applicant paying to  
the respondents, a sum of Rs.15,000/- by way of costs, within two  
weeks from date. Proof of such payment is to be filed in the  
Registry within three weeks.

.....J.  
(ALTAMAS KABIR)

.....J.  
(CYRIAC JOSEPH)

New Delhi,  
August 07, 2009.  
ITEM NO.1

COURT NO.5

SECTION IX

SUPR EME COUR T OF I ND I A  
RECORD OF PROCEEDINGS  
IA 2-4/2008 in CIVIL APPEAL NO. 6685 OF 1999

V.SUMATIBEN MAGANLAL MANANI

Appellant (s)

VERSUS

UTTAMCHAND KASHIPRASAD SHAH AND ANR.

Respondent(s)

( for restoration of appeal and setting aside abatement and  
substitution of deceased appellant and c/delay in filing substitution  
appln. and and office report ) )

Date: 07/08/2009 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ALTAMAS KABIR  
HON'BLE MR. JUSTICE CYRIAC JOSEPH

For Appellant(s)

Mr. Abhijat P. Medh,Adv.

Mr.Chirag M.Shroff ,Adv

For Respondent(s)

Mr. H.A. Raichura,Adv.

Mr. Umesh Kumar Khaitan ,Adv.

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Mr. Tarun Kumar Shah, Adv.  
Mr. G.L. Gupta, Adv.  
for Tarun Shah & Associates, Adv.

UPON hearing counsel the Court made the following  
ORDER

IA 2, is for restoration of C.A.No.6685 of  
1999, which had been dismissed on 2<sup>nd</sup> May, 2006, on the  
ground that it had abated.

IA 3, is for substitution of the heirs of the

sole appellant, V.Sumatiben Maganlal Manani

Uttamchand Kashiprasad Shah.

IA 4 of 2007, is for condonation of 1140 days' delay in making the substitution application.

Having heard learned counsel for the respondent and the applicant for substitution and having perused the counter affidavit filed on behalf of the respondents, we are of the view that the applications should be allowed in order to avoid multiplicity of proceedings and in the interest of justice.

We, accordingly, allow the same and set aside the abatement recorded and direct the restoration of the appeal to its original file.

We also allow the application for substitution of the legal heirs of the sole appellant. Let necessary amendments be made in the cause title.

This order is being passed subject to the applicant paying to the respondents, a sum of Rs.15,000/- by way of costs, within two weeks from date. Proof of such payment is to be filed in the Registry within three weeks.

(Sheetal Dhingra)  
Court Master

(Kusum Gulati)  
Court Master

[Signed order is placed on the file]