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

CIVIL APPLICATION NO.19 OF 2015

(For Restoration)

IN

FAMILY COURT APPEAL NO.66 OF 2008

Kiran Hiralal Popat	... Applicant
<u>In the matter between</u>	
Kiran Hiralal Popat	... Appellant
Vs.	
Smt. Suhasini alias Swati Kiran Popat	... Respondent

Mr. Ranjit Agashe i/by Mr. Shashank C. Thatte, for the Applicant.
Mr. Rupesh R. Mourya i/by Mr. Diwakar A. Dwivedi, for the Respondent.

**CORAM : A.S. OKA &
A.K. MENON, JJ.**

DATE : 16th FEBRUARY, 2015

PC.

. We have perused our earlier order dated 22nd January, 2015. On the basis of the said order, the Applicant moved the concerned Bench (Coram: Smt. V.K. Tahilramani and Smt. I.K. Jain, JJ.). We have perused the order passed by the said Division Bench on 5th February, 2015 and in particular paragraph 3 of the said order.

2. The learned counsel appearing for the Respondent, in the light of the said order, has left the matter to this Court.

3. The Family Court Appeal preferred by the Applicant has been dismissed for non-prosecution as the Advocate appointed by the Applicant was not present on 4th December, 2014. Even the Advocate representing the Respondent was not present. On 4th December, 2014, the Appeal filed by the Applicant as well as the Appeal filed by the Respondent against the same Judgment and Decree were dismissed for non-prosecution. The learned counsel appearing for the Applicant submits that both the Appeals be restored.

4. Considering the fact that the Family Court Appeals have been dismissed not on merits but on the ground of absence of Advocates, a case is made out for restoration of both the Appeals. Accordingly, the order dated 4th December, 2014 is hereby recalled. Family Court Appeal Nos.66 of 2008 and 136 of 2008 are restored along with Civil Application No.170 of 2008. Interim orders, if any, operating in both the Appeals are also restored. The Appeal shall be added to the weekly board of 23rd February, 2015. We make it clear that both the parties will not be entitled to seek adjournment on the next date. Civil Application is disposed of on above terms.

(A.K. MENON, J)

(A.S.OKA, J)