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

**INCOME TAX APPEAL NO. 1801 OF 2013**

The Commissioner of Income Tax-19, Mumbai ..Appellant

Vs.

Nirmala Ramnath Kini ..Respondent

....

Mrs. S.V. Bharucha, Advocate for Appellant.
Mr. Nishit Gandhi, Advocate i/b Vipul Joshi for Respondent.

....

**CORAM : M.S. SANKLECHA &**
**G.S. KULKARNI, JJ.**
**DATED : 2 SEPTEMBER 2015**

**P.C.:**

This appeal challenges the order dated 18 March 2013 passed by the Income Tax Appellate Tribunal. This appeal relates to the Assessment Year 2007-08.

2. Following question of law is urged for our consideration:

> "Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in upholding the order of the CIT(A) to determine the Long Term Capital Gain taking into account the indexed cost of acquit ion of the asset as on

01.04.1981 when the previous owner first held the asset, ignoring that the assessee become owner of the asset to the extent of 1/3rd share on 09/04/2001, further 1/6th share on 27/06/2004 and 22/09/2006 and remaining 1/3rd share on 20/09/2006 i.e. after the death of previous owner?"

3. The challenge by the revenue before the Tribunal was acceptance of Long Term Capital Gain by taking indexed cost of acquisition as on 1 April 1981 instead of the date on which the assessee received shares as a consequence on the death of her husband by the CIT(A). The impugned order of the Tribunal has dismissed the revenue's appeal following the decision of this Court in ***CIT Vs. Manjula J. Shah*** 68 DTR 269.

4. In the above view, no question of law arises for our consideration. Accordingly appeal dismissed.

**[G.S. KULKARNI, J]** **[M.S. SANKLECHA, J.]**