

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.1002 OF 2016
WITH
CIVIL APPLICATION NO.1261 OF 2016

Mrs.Saira Bano Mohd Ibrahim Appellant
vs
Vijay Ramakant Khedekar .. Respondent

Mr.Pankaj Dwivedi for Appellant
Ms.Prabha Badadare for Respondent

CORAM : MRS.MRIDULA BHATKAR, J
DATE: 9 OCTOBER 2017

P.C.

1. Learned counsel for the Respondent submits that on 8.9.2017 the original Suit is dismissed for default and therefore, this Appeal from Order does not survive.

2. Learned counsel for the Appellant confirms the fact of dismissal of the Suit on 8.9.2017. He submits that he has moved an Application for restoration of the original Suit itself within time. He therefore, prays that this Appeal from Order be kept pending.

3. When the regular Suit is dismissed either on merits

or on default, an Appeal from order arising out of the order passed in the said Suit cannot survive as the order against which the Appeal is filed is not in existence.

4. Hence,Appeal from order is disposed of.

5. Liberty is given to the Appellant to take out necessary proceedings.

(MRIDULA BHATKAR, J)