

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

WRIT PETITION No.7913 OF 2018

Daulat Jehangir Mehta
(alias Dolly) since deceased, through ... Petitioner
Aspi Phiroze Mehta

Vs.

Mrs.Piloo Dadabhoy Broacha & Ors. ... Respondents

Mr.A.G. Revankar for the Petitioner

Mr.S.N. Vaishnava with Ms.N.J. Mukherjee for the Respondent
Nos.1,2 & 4

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: AUGUST 2, 2018**

P.C. :

1. Pursuant to the order dated 31.7.2018, the learned Counsel for respondent Nos.1, 2 and 4 submits to the orders of this Court. He fairly produces the judgment of the Constitutional Bench of the Supreme Court in the case of **Mst. Rafiquennessa vs. Lal Bahadur Chetri**¹ wherein the Supreme Court has held in para 13 thus:

“13. Incidentally, an appeal pending before the lower appellate Court is a continuation of the suit.”

1 AIR 1964 SC 1511

2. Thus, for the reasons mentioned in the order dated 31.7.2018, the impugned order dated 26.4.2018 passed by the learned Adhoc Assistant Judge, City Civil Court, Mumbai in Notice of Motion No.853 of 2017 in Suit No.3704 of 2004, is hereby set aside and the suit before the City Civil Court is stayed, till the disposal of the Appeal No.19 of 2014 which is pending before the appellate Bench of the Small Causes Court. The lower appellate Court to expedite the said appeal and decide it preferably within six months.

3. Writ Petition is disposed of accordingly.

(MRIDULA BHATKAR, J.)