

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil First Appeal No. 354/2007

Smt Rajesh Mathur & Ors.

----Appellants

Versus

Avtar Bihari Mathur & Ors.

----Respondents

For Appellant(s)	:	Mr. R.K. Daga Mr. Mohit Gupta
For Respondent(s)	:	Mr. R.K. Mathur, Sr. Adv. with Mr. Aayush Goyal & Mr. Lucky Sharma

HON'BLE MR. JUSTICE MANEESH SHARMA

Order

18/02/2026

1. Matter has come up on application (IA No.1/2026) filed under Section 151 of CPC.
2. Learned counsel for the applicants submits that the appeal was admitted and interim order was granted vide order dated 30.07.2007, thereafter, the appeal was dismissed as abated on 31.10.2023. Although the said abatement order was set aside vide order dated 07.03.2025 but the Executing Court is proceeding with the execution, therefore, appropriate order may be passed clarifying the position of stay order.
3. *Per contra*, learned counsel for the respondents submits that the appeal was abated and the respondents' application for seeking leave to pass final decree is still pending, therefore, no such clarification is required at this stage.
4. Heard and considered the facts and circumstances of the case.

5. The appeal was admitted on 30.07.2007 and following interim order was passed:-

"Heard on interim relief.

In the facts and circumstances of the case, learned trial court may take steps for preparation of the final decree, but the same shall not be made without leave of this court. Record of the trial court may be sent back for preparation of the final decree.

Filing of paper book is dispensed with.

Put up for hearing in due course."

6. Thereafter, the appeal was abated vide order dated 31.10.2023 and the said order was recalled vide order dated 07.03.2025 and the appeal was restored to its original number subject to payment of cost of Rs.10,000/-. Therefore, once the appeal is restored to its original number, the stay application and the interim order automatically revives on the same terms and conditions.

7. In that view of the matter, the application (IA No.3/2026) is disposed of with the aforesaid observations.

8. Further, learned counsel for the respondents submits that he has filed an application for seeking leave to prepare a final decree but the said application has not been listed.

9. Office is directed to check and proceed and if the said application is still pending, the same should be listed in the Court.

(MANEESH SHARMA),J