

**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO**

**SECOND APPEAL NO.796 OF 2015**

**JUDGMENT:**

None appears for the appellant.

One Sri D. Venkat Ranga Reddy filed civil suit O.S.No.1043 of 1999, which was tried by the Principal Junior Civil Judge, Ranga Reddy Court at L.B. Nagar, who by his judgment and decree dated 19.10.2006 decreed the suit directing the defendants 1 & 2 therein to execute the registered sale deed in favour of the plaintiff or his nominee within a period of two months. The present appellant is shown as second defendant to the said suit, while Sri Paranda Yadagiri, S/o Babaiah was shown as first defendant. Against the judgment and decree in O.S.No.1043 of 1999, the first defendant in the suit namely Sri Paranda Yadagiri carried the matter by way of an appeal and the said appeal is numbered as A.S.No.283 of 2006 on the file of the learned III Additional District & Sessions Judge (FTC), Ranga Reddy District at L.B. Nagar. During the course of pendency of the said appeal, the sole appellant Sri Paranda Yadagiri appears to have died. But, no steps have been taken for bringing on record the legal representatives, provided, the cause for suing survives. In those circumstances, the learned III Additional District & Sessions Judge passed an order on 11.07.2011 declaring the appeal to have abated. It is the said order dated 11.07.2011 which is sought to be challenged by the present appellant herein by instituting a second appeal. The present appellant is the second respondent to A.S.No.283 of 2006. Though she is impleaded as the second defendant and though she suffered the decree in the suit O.S.No.1043 of 1999, she has not preferred any such appeal. Order XXII Rule 1 of the Code of Civil Procedure would set out that the death of a plaintiff or defendant shall not cause the suit to abate, if the right to sue survives. Therefore, in the absence of any attempt made by the present appellant herein to demonstrate before the Court which was to deal with A.S.No.283 of 2006, that cause to sue survives the death of the appellant, no exception can be taken to the order passed by the learned III Additional District & Sessions Judge, Ranga Reddy District, in holding that the appeal has abated due to the death of the sole

appellant. I do not see any legal infirmity in the order passed in this regard on 11.07.2011 in A.S.No.283 of 2006 and hence, the present appeal is dismissed.

Consequently, miscellaneous applications pending if any, shall also stand dismissed.

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**JUSTICE NOOTY RAMAMOHANA RAO**

04.12.2015

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