

THE HON'BLE SRI JUSTICE N.BALAYOGI

Civil Miscellaneous Appeal No.120 of 2006

JUDGMENT :

As per the proceeding sheet, by order dated 14.2.2006, notice was ordered to respondents and on appearance of respondents, by order dated 5.2.2007, at the request of both the counsel, the matter was directed to be listed for final hearing. Again on 20.3.2007, at the request of both the counsel, the matter was directed to be listed for final hearing. Thereafter, the matter was adjourned several times from time to time.

2. On 9.2.2018, junior counsel of Sri P.Hemachandra, representing him, reported that his senior has given up vakalat long ago, therefore, the court ordered notice to the appellant. In spite of notice, none appeared for the appellant. On 3.4.2018, counsel for R15 reported that the main O.S. No.966 of 2005 was dismissed for default. In proof, party was directed to file an affidavit and today the party filed affidavit stating that the main suit O.S. No.966 of 2005 was dismissed for default on 7.6.2011. Thereafter, the suit is not restored to file. Since the main suit itself is dismissed for default, the appeal preferred against the order dated 30.1.2006 in I.A. No.1355 of 2005 in O.S. No.966 of 2005 becomes infructuous. More so, none appear for the appellant.

3. In such circumstances, I have no hesitation to dismiss the appeal as infructuous and also for non-prosecution.

4. Accordingly, the Civil Miscellaneous Appeal is dismissed as infructuous and also for non-prosecution. No order as to costs.

5. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE N.BALAYOGI

09th April, 2018

skmr

