

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

A.S.M.P.Nos.2675 and 2676 of 2010

IN/ AND

A.S. No.576 of 1997

JUDGMENT:

A.S.M.P.Nos.2675 and 2676 of 2010 were filed by the sole appellant *inter alia* stating that the second respondent, K. Gangamma died and requesting to set aside the abatement caused on the death of the second respondent and to bring on record the legal representatives of the deceased second respondent as party respondents in the Appeal Suit.

There was no representation for the petitioner in both the Miscellaneous Petitions on 23.01.2018. Hence, this Court directed the Miscellaneous Petitions to be listed today under the caption "for dismissal". Yet again, there is no representation for the petitioner/appellant.

The above conduct of the petitioner/appellant indicates that he is not interested in prosecuting the Appeal Suit.

The law on the point is well settled that on the death of a party to the appeal, if no application is made by the party concerned to the appeal or by the legal representatives of the deceased on whom the right to sue has devolved for substitution of their names in the place of the deceased party within 90 days from the date of death of the party, such appeal abates automatically on expiry of 90 days from the date of death of the party. On the 91st day, there is

no appeal pending before the Court, as the appeal on that day stands dismissed as abated.

In that view of the matter, the A.S.M.Ps. are dismissed for default and the Appeal Suit is dismissed as abated.

No order as to costs. Miscellaneous petitions, pending if any, also shall stand dismissed.

M. SEETHARAMA MURTI, J

Date: 07.02.2018
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