

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

Appeal Suit No.3104 of 1999

JUDGMENT:

As there was no representation for the appellants, on 29.01.2018, the appeal suit was directed to be listed today under the caption 'for Dismissal'.

When the matter is taken up for hearing, learned counsel for the appellants would submit that despite intimation, the appellants did not respond and that, therefore, he has no instructions from the appellants. However, learned counsel for the respondents brings to the notice of the court the content of the penultimate paragraph of the judgment of the trial Court wherein it was held that so as long the suit schedule property is under submergence of Garrepalli tank, the fishermen co-operative society, which is not impleaded as a party to the suit, and its members are entitled to catch fish and further submit that if only the plaint schedule land is under submergence of waters, the fishermen co-operative society, which is not a party to the suit, and its members are entitled to catch fish and that the said society and its members have a preferential right to do so and that if the water recedes and the land is available for cultivation, the plaintiffs are entitled to cultivate the land and that in that view of the matter, the decree and judgment of the trial Court are sustainable and that at present the land is not under submergence and hence the appeal suit has become infructuous and no cause survives for adjudication in the appeal suit and that, therefore, the appeal suit is liable for dismissal as infructuous. Be that as it may.

As the appellants are not showing any interest to prosecute the appeal,
the Appeal Suit is dismissed for default.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

M. SEETHARAMA MURTI, J

02.02.2018

Vjl

