

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

APPEAL SUIT No.2329 of 1998

ORDER:

This appeal is preferred against the judgment and decree passed by the learned Senior Civil Judge, Machilipatnam, in O.S.No.36 of 1993. The said suit was filed for partition of the plaint schedule property into six equal shares and for allotment of five shares to the plaintiffs and for separate possession. The said suit was dismissed on 23.09.1998. Against the same, the present appeal was filed.

It appears that during the pendency of the suit itself, defendant No.1 expired and defendant Nos.3 to 7 were added as legal representatives in I.A.No.702 of 1996 on 01.11.1996. In the appeal before this Court, respondent Nos.1 to 7 are shown, though the first respondent died during the pendency of the suit itself. The second respondent is the bank. Now, it is stated by the learned Counsel for the appellants that the third respondent also died, and respondent Nos.4 to 7 are already representing the interest of the third respondent. As per the endorsement made by the Registry, the appeal was dismissed for default by order dated 07.02.2011 as against respondent Nos.1 and 3 to 7. Though respondent No.2 was served, it is not the sharer of the property and it is of no consequence. In view of the dismissal of the appeal as against the contesting parties, who represented the interest of the deceased first defendant, the present appeal does not survive for consideration.

The Appeal Suit is, accordingly, dismissed. The miscellaneous petitions pending in this appeal, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

21.03.2018

vs

