

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

APPEAL SUIT No.1215 of 1998

JUDGMENT:

On 24.01.2018, learned counsel for the appellant/1st defendant submitted that he addressed a registered letter to the appellant and that the same was returned with an endorsement that the appellant died. However, on that day, the learned counsel, who formerly appeared for the appellant, sought time. Hence, the matter was directed to be posted after two weeks.

2. Today, when the matter came up for hearing, learned counsel for the appellant/1st defendant submitted that the appeal, pending before this Court, is liable to be dismissed as abated, in view of the fact that no steps are taken by the legal representatives of the deceased sole appellant to come on record as appellants and prosecute the appeal.

3. 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.

4. In that view of the matter, the Appeal Suit is dismissed as abated.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.

There shall be no order as to costs.

M.SEETHARAMA MURTI, J

Date: 7th February, 2018

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