

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

APPEAL SUIT No.1391 of 1998

JUDGMENT:

On 18.01.2018, learned counsel, who formerly appeared for the appellant, submitted that the sole appellant died and that steps are required to be taken. Hence, the matter was directed to be posted after two (02) weeks.

2. Today, when the matter came up for hearing, learned counsel for the appellant submitted that this Appeal Suit is liable to be dismissed as abated in view of the fact that no steps are taken by the legal representatives, if any, of the deceased sole appellant to come on record as appellants for prosecuting the Appeal Suit.

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: 21st February, 2018

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