

The plaintiff has filed memo to dismiss the suit as not pressed on the ground of settlement out side the court. The learned counsel for D 1 to 3 submitted that he has no objection.

The learned counsel for defendant no. 4 has filed objections to the memo by stating that the Lrs of defendant no. 4 are not the parties to the alleged settlement as stated in the memo. The Lrs of D 4 are also entitled to the partition and separate possession in respect of the suit schedule properties. Accordingly prayed to dismiss the memo.

Heard both the counsel.

Perused the records.

On perusal of the plaint, it appears that initially, the plaintiff has filed the suit only against D 1 to 3. Defendant no. 4 voluntarily

got impleaded in the suit at the later stage. On perusal of the plaint, there are no any allegation against defendant no. 4. Moreover it appears that, defendant no. 4 died and counsel for Lrs of defendant no. 4 has voluntarily come up before the court by filing application under order 22 rule 4 of CPC to bring them on record.

The said application is still pending. The plaintiff has also disputed the relationship of D 4. At this stage, the plaintiff has filed memo for dismissal of the suit as not pressed.

By looking in to above facts, it is clear that as on this day, the Lrs of D 4 are not on record. Hence, this court is of the opinion that granting liberty to the Lrs of D 4, this suit may be dismissed as not pressed.

Accordingly, suit is dismissed as

not pressed. However, the suit for partition and separate possession is a recurring cause of action, liberty is granted to Lrs of D 4 to file fresh suit.

Sd/-

C/C I Addl. Civil Judge & J.M.F.C,
Sakaleshpura.