

ORDERS ON IA No.X

The learned counsel for the plaintiff has filed an IA No.X under Order 23 Rule 1 R/w Section 151 of CPC, seeking permit to withdraw the suit.

The Lrs of the plaintiff namely Shivaraju has filed an sworn affidavit in support of application wherein, the plaintiff has filed this suit against the defendants for the relief of partition and separate possession over the suit schedule properties. During the life time of original plaintiff, he has filed compromise petition before this court on 19.03.2018. Now, the Lrs of the plaintiff are intended to withdraw the suit on advise of the well wishers. **Hence filed this application.**

The counsel for the defendant No.2 has filed an objection to IA No.X and contended that, application filed by the Lrs of the plaintiff is not maintainable under the law the same is liable to be dismissed in limine. The present suit filed for the relief of partition. The rank of the parties one and the same. The defendant No.2 has impleaded recently. The plaintiff Lrs have filed memo before this court, the same came to be allowed. Thereafter, the defendant No.2 has filed an application seeking restore the suit. The said application came to be allowed. The plaintiff again filed similar application. **Hence, prayed that, dismiss the application with cost.**

Heard both sides.

This court has perused the material available on record. Admittedly, the plaintiff has filed this suit for the relief of partition and separate possession over the suit schedule properties. On 08.03.2025, the counsel for the plaintiff has filed a memo seeking dismissal of the suit as settled. In view of the memo, the suit was dismissed. Thereafter, the defendant No.2 challenged the same. Accordingly, this suit was restored on 10.10.2025. The plaintiff again filed a similar application. The defendant No.2 taken contentions that, no settlement arrived between the parties to the suit. In a partition suit, the ranks of the parties are equal and the same. The plaintiff taken contentions that, the parties are compromised in the dispute. The same is disputed by the defendant No.2. Hence, IA No.X filed by the plaintiff is not maintainable. Hence, this court has proceeded to pass the following order:

ORDER

IA No.X filed by the plaintiffs under Order 23 Rule 1 R/w Section 151 of CPC is hereby dismissed with costs of Rs.1,000/-.

For amendment and to furnish amended plaint on IA No.VI to VII finally by 10.12.2025.

**Senior Civil Judge and JMFC.,
Malavalli.**