

was, in truth, and only deducible from the deed of trust of the 17th of August, 1797. Wherefore he prayed, that the agreement, filed on the 12th of February, 1827, might be rescinded and withdrawn. Upon which the Chancellor suggested to the solicitors, that as the case had abated by the death of the defendant Chittenden, there could be no further proceedings had until it had been revived against his legal representatives.

Charles Frenour, by his petition, filed on the 29th of November, 1831, stated, that prior to the execution of the deed of trust of the 17th of August, 1797, the late Anthony Hook had by a deed bearing date on the 8th of May, 1797, conveyed the one-half of the lot on Alice Anna street to John Hook, from whom it had passed to this defendant Edward Hagthrop, under whom this petitioner claimed. Whereupon he prayed, that all such of the proceedings, in this * case, as related to the one-half of the lot so claimed by him should be stricken out, &c. **599**

BLAND, C., 29th November, 1831.—Ordered, that the matter of the foregoing petition stand over until the case shall have been revived and brought before the Court for a final hearing.

After which the plaintiff, by his petition, stated, that the controversy in relation to the ten acre lot was then ready for final hearing, and the parties interested all before the Court; that the controversy in relation to the lot on Alice Anna street was not then ready for final hearing, inasmuch as one of the parties in interest was not before the Court. And as the controversy in relation to the ten acre lot may be finally determined without injury or inconvenience, leaving the property on Alice Anna street for future adjudication. And as the matters now remaining in dispute, and the difficulties in the way of a final decision, in relation to the Alice Anna street property, present no obstacles to a final decision in relation to the ten acre lot; and inasmuch as the parties are in needy circumstances; and also as the property cannot be improved until the right to it is finally settled; the petitioner prayed, that the Court would proceed to a final decision upon the questions in regard to the ten acre lot, retaining for future adjudication so much of the controversy as relates to the property on Alice Anna street.

BLAND, C., 17th February, 1832.—Where there are a plurality of defendants, and one of them dies, who had an interest which does not devolve upon the surviving parties, but which might, in all respects, have been separated by that final decree which the Court would have passed; and which interest of the deceased is of such a nature as not necessarily to involve an expression of the judgment of the Court upon that which does obviously constitute