


Order No. 19
20.02.2023

Plaintiff along with counsel present. Representative of defendants also present. Counsel for plaintiff submitted application for withdrawal of the suit with permission to file a fresh one. Representative of defendants conceded the same. Arguments heard and record perused.

Counsel for plaintiff submitted application for withdrawal of the suit with permission to file a fresh one alleging that there are incorrect and incomplete averments in the plaint which amounts to formal defect in the suit and suit will ultimately fail by this reason of formal defect.

Order XXIII, Rule 1 CPC empowers the plaintiff to withdraw his suit at any time after the institution of the suit with permission to file a fresh one subject to formal defect and subject to satisfaction of the court. There are incorrect and incomplete averments in the plaint. Per NADRA record, plaintiff was issued CNIC with date of birth as 02.04.2008 on the strength of birth certificate issued by Orakzai Model School and College, Saam Feroz Khel, Lower Orakzai. Copy of the certificate is annexed with the NADRA record. Orakzai Model School & College has not been arrayed as party to the suit. Incorrect and incomplete averments of plaint amounts to formal defect and suit of plaintiff will ultimately fail by reason of this formal defect.


20/02/2023
ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai

Keeping in view formal defect in the suit and no objection of representative of defendants, application for withdrawal of the suit with permission to file a fresh one is hereby accepted subject to cost of Rs. 500/-. Resultantly, suit in hand is dismissed as withdrawn with permission to file a fresh one subject to all legal limitations.

File be consigned to record room after necessary completion and compilation.

Announced.
20.02.2023



Zahir Khan
Civil Judge-I, Kalaya, Orakzai