

Order No: 05
17.06.2022

Plaintiff along with counsel present. Representative of defendants absent. Learned counsel for plaintiff filed application for withdrawal of the suit with permission to file a fresh one.


Plaintiff/petitioner has requested for withdrawal of the suit with permission to file a fresh one alleging that there is a formal defect in the suit as correction of date of birth and cancelation of one of the CNICs has not been sought in the plaint. It is further alleged that there are some incorrect and incomplete averments in the plaint.

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 satisfaction of the court. There are incorrect and incomplete averments in the plaint which amounts to formal defect and suit of plaintiff will ultimately fail by reason of this formal defect.

Keeping in view formal defect in the suit, 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 Resultantly, suit in hand is dismissed as withdrawn with permission to file a fresh one within 10 days subject to all legal limitations.

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

Announced.
17.06.2022



Zahir Khan
Civil Judge, Kalaya, Orakzai