

Or-----17
15.10.2022

Parties alongwith counsel present. Counsel for the plaintiff submitted an application for withdrawal of the suit with permission to file a fresh one, which is place on file. Counsel for the defendant marked his no objection on the margin of the application.

Petitioners/plaintiffs have filed an application for withdrawal of suit with permission to file a fresh suit stating that there are incomplete averments in the plaint and that father of the plaintiff no. 2 is alive but he is not made party in the suit. He further contended that father of plaintiff no. 2 is necessary party and in his absence the plaintiffs cannot succeeds in their suit. Further stated that some of the plaintiffs also needed to be added in the plaint which are necessary party to the suit.

Order XXIII, Rule 1 CPC empowers the plaintiffs to withdraw their suit at any time of the institution of the suit with permission to file a fresh one subject to formal defects and subject to satisfaction of the Court. Father of the plaintiff no. 2 is alive but he is not made party in the suit. There are formal defects in the suit and suit of plaintiffs will ultimately fail by reasons of this formal defects.

Keeping in view formal defects in suit and no objection of the learned counsel for the defendants/respondents, application for the withdrawal of the suit with permission to file a fresh one is hereby accepted. Resultantly suit in hand is dismissed as withdrawn with permission to file fresh suit subject to all legal limitations within 15 days.

File be consigned to District Record Room, Orakzai, after its necessary completion and compilation.

Announced
15.10.2022


Shabeer Ahmad,

Civil Judge-II,
Tehsil Courts Kalaya, Orakzai