

Or-----17

27.10.2022

Parties present.

Through this single Order I intend to dispose of an application for withdrawal of the suit with the permission to file fresh suit. Application was strongly contested by the defendants by filing reply and forwarding arguments thereto;

Contention of the plaintiff is that some of the suit property which is mentioned in the plaint is the inherited property of the plaintiff and is his ownership. Also, some of the property is the one which he has exchanged with others and some of which he has given on *ijara*. That these facts are not mentioned in the plaint. That the fields which are mentioned in the plaint are not the one which he is at issue with the defendants. That the property which the plaintiff is at issue with the defendants is not mentioned in the plaint. That there are defects in the plaint and the suit of the plaintiff will ultimately fail by reason of these defects.

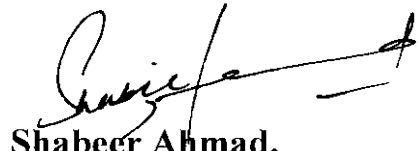
On the other hand contention of defendants are that the plaintiff has not mentioned any formal defects in the suit. That the petitioner/plaintiff has not mentioned any real facts in the present application, therefore, application is liable to be dismissed.

Order XXIII Rule 1 CPC allows the plaintiff to withdraw his suit any time after institution as against all or any of the defendants or abandon part of his claim with the permission of the court and to file a fresh suit. Petitioner/plaintiff himself contends that some of the suit property mentioned in the plaint is not at issue with the defendants and the property which he is at issue with the defendants is not mentioned in the plaint. In these circumstances, plaintiff is allowed to withdraw the instant suit with the permission to file a fresh suit subject to cost of Rs. 7000 (seven thousand) to be paid to the defendants within 01 month.

File be consigned to the District Record Room, Orakzai after proper completion and compilation.

Announced

27.10.2022



Shabeer Ahmad,

Civil Judge-II,

Tehsil Courts Kalaya, Orakzai