

Order No: 11
01.07.2022

Plaintiff through counsel present. 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 appointing authority and Health Department have not been arrayed as party to the suit and 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 formal defect and 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 Resultantly, suit in hand is dismissed as withdrawn with permission to file a fresh one subject to all legal limitations.

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

Announced.
01.07.2022



Zahir Khan
Civil Judge-I, Kalaya, Orakzai