

Order No: 18

26.07.2022

Son-in-law of plaintiff along with counsel present. None present on behalf of defendants, therefore placed ex-parte. Arguments of learned counsel for plaintiff/petitioner already heard and record perused.

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 there are some incomplete and incorrect averments in the plaint and daughter of plaintiff who is necessary party to the suit, has not been arrayed as party to the suit.

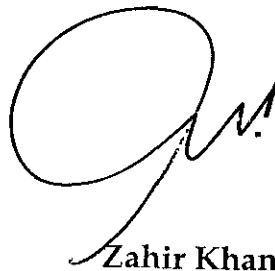
Order XXIII, Rule 1 CPC empowers the plaintiff to withdraw his/her suit at any time after the institution of the suit with permission to file a fresh one subject to formal defect and subject to satisfaction of the court. There are incorrect and incomplete averments in the plaint which amounts to formal defect and suit of plaintiff will ultimately fail by reason of this formal defect.

Furthermore, per averments of plaint, father's name of Mst. Lal Pari is Abid Ali but when NADRA record of Mst. Lal Pari was produced, it shows father's name of Mst. Lal Pari as Habib Gul.

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 Resultantly, suit in hand is dismissed as withdrawn with permission to file a fresh one subject to all legal limitations.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.
26.07.2022



Zahir Khan
Civil Judge-I, Kalaya, Orakzai