

Order No. 021  
30.07.2022

Special attorneys of parties along with counsel present. Learned counsel for respondents/defendants marked no objection on the acceptance of application filed by petitioners/plaintiffs for withdrawal of the suit with permission to file a fresh one. He requested that heavy cost be imposed on the petitioners/plaintiffs. Record gone through.

Petitioners/plaintiffs have 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 that respondents/defendants are the representatives of Moza Tazi Khel but inadvertently plaintiffs have been shown as representatives of Moza Tazi Khel.

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 and full description of suit property is not provided in the plaint. Incorrect and incomplete averments of plaint amounts to formal defect and suit of plaintiffs will ultimately fail by reason of this formal defect.

Keeping in view formal defect in the suit and no objection of learned counsel for respondents/defendants, application for withdrawal of the suit with permission to file a fresh one is hereby accepted subject to cost of Rs.

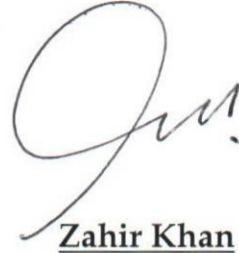
*Jm*  
30/07/2022  
ZAHIR KHAN  
Civil Judge/JM  
Kalaya Orakzai

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8000/-. Resultantly, suit in hand is dismissed as withdrawn with permission to file a fresh one subject to all legal limitations within 15 days.

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

Announced.  
30.07.2022



Zahir Khan  
Civil Judge-I, Kalaya, Orakzai