

Or-----04

21.12.2022

Parties alongwith counsel present.

Through my this single order I intend to dispose of an application under Order XXIII Rule 1 CPC for withdrawal of the suit with permission to file a fresh one filed by petitioner/plaintiff. Counsel for the respondent/defendant marked his no objection on acceptance of the application subject to costs.

Petitioner/plaintiff has 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 all necessary parties have not been arrayed in the suit because of which suit of the petitioner/plaintiff will ultimately fail by reasons of these defects.

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. Since there are incomplete averments in the plaint and all necessary parties are also not arrayed in the present suit, therefore, suit of plaintiff will ultimately fail by reasons of these defects.

Keeping in view formal defects in suit and no objection of the learned counsel for the respondent/defendant, application for the withdrawal of the suit with permission to file a fresh one is hereby **accepted** subject to cost of Rs. 5,000/-. Resultantly, the suit in hand is dismissed as withdrawn with permission to file fresh suit subject to all legal limitations within 03 months.

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

Announced

21.12.2022



Shabeer Ahmad,

Civil Judge-II,

Tehsil Courts Kalaya, Orakzai