

Or-----33
03.09.2022

Parties alongwith counsel present.

Through this single order I intend to dispose of an application filed by the plaintiffs for withdrawal of the suit with permission to file a fresh suit.

Arguments heard and record perused.


Petitioners/plaintiffs have filed an application for withdrawal of suit with permission to file a fresh suit stating that father of plaintiff no. 1 is alive but he is not made party in the suit. He further contended that father of plaintiff no. 1 is necessary party and in his absence the plaintiffs cannot succeeds in their suit. That this amounts to formal defect in the suit.

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. Father of the plaintiff no. 1 is alive but he is not made party in the suit. There are formal defects in the suit and suit of plaintiffs will ultimately fail by reasons of this formal defects.

Keeping in view formal defects in suit and no objection of the learned counsel for the defendants/respondents, application for the withdrawal of the suit with permission to file a fresh one is hereby accepted subject to cost of Rs: 5000/-. Resultantly suit in hand is dismissed as withdrawn with permission to file fresh suit subject to all legal limitations within 15 days.

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

Announced
03.09.2022


Shaheer Ahmad,

Civil Judge-II,
Tehsil Courts Kalaya, Orakzai

RS Sava Received by Ishrat Ali (Attorney for defendants)