

Or-----59
30.08.2022

Parties alongwith counsel present.

Through this single order I intend to dispose of an application filed by the plaintiff for withdrawal of the suit with permission to file a fresh suit. Counsel for the defendants marked no objection on the margin of application.

Arguments heard and record perused.

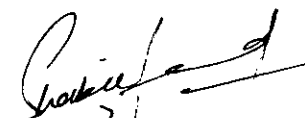
Petitioners/plaintiffs have filed an application for withdrawal of suit with permission to file a fresh suit stating that fathers of plaintiff no. 1 and that of plaintiff no. 4 are alive but they are not made party in the suit. He further contended that there are also some necessary parties which are not made parties in the plaint which amounts some formal defects 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. Fathers of the plaintiff no. 1 and plaintiff no. 4 are alive but they are not made party in the suit. There are incorrect and incomplete averments in the plaint. Incorrect and incomplete averments amounts to formal defects in the suit and suit of plaintiffs will ultimately failed 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 Resultantly suit in hand is dismissed as withdrawn with permission to fresh suit subject to all legal limitations within 15 days.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
30.08.2022


Shabeer Ahmad,
Civil Judge-II,

Tehsil Courts Kalaya, Orakzai