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16.12.2022

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 all the necessary parties are not arrayed in the list of plaintiffs and defendants. Further stated that full description of the properties alongwith boundaries are also not mentioned in the present suit. That the pedigree table of the parties is not attached with the suit. Petitioners/plaintiffs lastly requested for the acceptance of application.

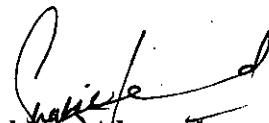
Defendant No. 5 and as attorney for the defendant No. 1, 4, 6 & 7 firstly marked his no objection on the acceptance of application but later submitted reply to the application and opposed the same. Defendant No. 2 & 3 are not in attendance for the last three hearings. Despite notice of pursuance issued to them, they are not in attendance for today also.

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 all the necessary parties are not arrayed in the present suit and all the properties are also not fully described in the instant suit, therefore, the suit will ultimately fail by reasons of these formal defects.

Keeping in view these formal defects in suit, application for the withdrawal of the suit with permission to file a fresh one is hereby accepted subject to cost of Rs: 7000/-. Resultantly suit in hand is dismissed as withdrawn with permission to file fresh suit subject to all legal limitations.

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

Announced
16.12.2022


Shabeer Ahmad,

Civil Judge-II,
Tehsil Courts Kalaya, Orakzai