

8

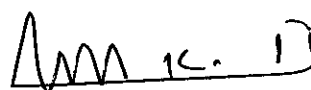
**Order. No. 09**  
**23.09.2024**

Plaintiff along with counsel present. Representative of defendants also present. Counsel for plaintiff submitted application for withdrawal of the suit with permission to file a fresh one alleging that there are incorrect and incomplete averments in the plaint which amounts to formal defect in the suit and suit will ultimately fail by this reason of formal defect. Representative of respondents/defendants conceded the application by marking no objection. Arguments heard and record perused.

Order XXIII, Rule 1 CPC empowers the plaintiff to withdraw his/her 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. Per averments of the application, there are incorrect and incomplete averments in the plaint. Incorrect and incomplete averments of plaint amounts to formal defect and suit of plaintiff will ultimately fail by reason of this formal defect. Keeping in view the contents of application and no objection of representative of defendants, application for withdrawal of the suit with permission to file a fresh one is hereby accepted subject to cost of Rs. 2000/-. Resultantly, suit in hand is dismissed as withdrawn with permission to file a fresh one subject to all legal limitations.

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

**ANNOUNCED**  
23.09.2024



**Zahir Khan**  
Civil Judge-I, Kalaya, Orakzai