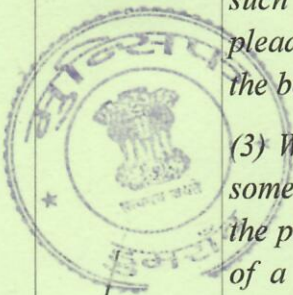


IN THE COURT OF CIVIL JUDGE (Jr. Div.), DUMRAON
Present:- Prateek Mishra, Civil Judge (Jr. Div.), Dumraon.
Title Suit No. - 354/2022

Date of Order	Order with initials of the Court	Remarks
<u>01.07.2026</u>	Case called upon. Ld. Counsel of plaintiff has filed petition dated 30.06.2026 under Order 23 Rule 1 of CPC. Ld. Counsel of Defendant has marked his no objection. Perusal of petition, it is noted that the Plaintiff has submitted that defendant has executed sale deed of land under dispute in favour of plaintiff. Hence, no reason of continuation of suit is there. Suit has been filed for claiming preferential right of plaintiff. Therefore, prayer has been made for withdrawal of suit. Ld. Counsel of defendant has marked his no objection. None appeared for defendant. Heard the parties and perused the records. It is noted that Plaintiff has not prayed for liberty to file another suit afresh. The plaintiff has claimed that their purpose has already been resolved hence no need to pursue the suit. Relevant provision of Civil Procedure Code in this regard is as under:- <i>“Withdrawal of suit or abandonment of part of claim— (1) At any time after the institution of a suit, the plaintiff may as against all or any of the defendants abandon his suit or abandon a part of his claim: Provided that where the plaintiff is a minor or other person to whom the provisions contained in rules 1 to 14 of Order XXXII extend, neither the suit nor any part of the claim shall be abandoned without the leave of the Court.</i> <i>(2) An application for leave under the proviso to sub-rule (1) shall be accompanied by an affidavit of the next friend and also, if the minor or such other person is represented by a pleader, by a certificate of the pleader to the effect that the abandonment proposed is, in his opinion, for the benefit of the minor or such other persons.</i> <i>(3) Where the Court is satisfied,— (a) that a suit must fail by reason of some formal defect, or (b) that there are sufficient grounds for allowing the plaintiff to institute a fresh suit for the subject-matter of a suit or part of a claim, it may, on such terms as it thinks fit, grant the plaintiff permission to withdraw from such suit or such part of the claim with</i>	



liberty to institute a fresh suit in respect of the subject- matter of such suit or such part of the claim.

(4) Where the plaintiff— (a) abandons any suit or part of claim under sub-rule (1), or (b) withdraws from a suit or part of a claim without the permission referred to in sub-rule (3), he shall be liable for such costs as the Court may award and shall be preclude from instituting any fresh suit in respect of such subject-matter or such part of the claim. ”

In view of the above, it is noted that the plaintiff in the suit wishes to withdraw unconditionally. In such circumstances, he may be allowed subject to Rule 4 of Order 23 CPC.

Hence, plaintiff is allowed to withdraw his suit without permission to file afresh. Office is directed to consign the record to Record Room as per rule.

(Prateek Mishra)

Civil Judge (Jr. Div.), Dumraon

