

THE COURT OF CIVIL JUDGE (JR. DIV.)
BENIPUR, DARBHANGA
P.S. No. 01 of 2025
REGISTRATION No. 07 of 2025

S. No.	Date of Proceedings	Order with Signature of the Court	Office action with Date
1	2	3	4
	28.07.2026	Today the Ld. Counsel on behalf of the plaintiff moved the petition dated 09.04.2026 filed under Order XXIII Rule 1(3)(a) seeking withdrawal of the instant partition suit with liberty to institute a fresh suit on the same subject matter. The plaintiffs have averred that during the pendency of this suit, certain material discrepancies regarding the suit land came to light, including an undisclosed registered lease deed dated 08-08-2009 and incorrect tagging of a portion of the suit property with a stranger's plot. Consequently, an ambiguity has crept into the description of the suit land, creating a formal defect that threatens the structural validity of the suit. Perused the record. The learned counsel appearing on behalf of the defendants has perused the petition and endorsed a clear "No Objection" dated 24.07.2026 on the face of the application. This Court is satisfied that the inaccurate description and ambiguity concerning the identity of the partition property constitutes a "formal defect" under the meaning of Order XXIII Rule 1(3)(a) CPC, supported by the principles laid down by the Supreme Court in V. Rajendran v. Annasamy Pandian (2017). Given the formal defect and the categorical "No Objection" from the defendants' side, it is in the interest of justice to allow the request. Accordingly, the plaintiffs' petition is hereby allowed. Partition Suit No. 01 of 2025 is dismissed as withdrawn. Absolute liberty is accorded to the plaintiffs to file a fresh suit in respect of the same subject matter/cause of action, subject to the law of limitation. No order as to costs. File be consigned to the record room.  Civil Judge (Jr. Div.) Benipur	