

CNR NO.- MHNS-2800-0135-2026

ORDER BELOW EXH. 6

(Yamunabai Jadhav V/s Kailas Jadhav)

Plaintiff filed pursis below Exh. 6 and submitted that she does not want to proceed with the suit as there are technical defects and several typing mistakes in suit. Therefore, she does not want to proceed further. She requested to withdraw this suit conditionally to file fresh suit.

2- No one appeared from the defendant. The suit was instituted on 29/01/2026 and immediately on 13/02/2026. The plaintiff filed this pursis seeking withdrawal of suit with permission to file fresh suit.

3- **Order 23 Rule 1 (3) of C.P.C.** states that, “*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 liberty to institute a fresh suit in respect of the subject matter of such suit or such part of the claim.*”. Here plaintiff is desirous to withdraw the suit conditionally with permission to file fresh suit.

4- The term formal defect has not been defined in the Court. The expression “Formal defect connotes some defect of form or procedure not affecting the merits of the case; such as want of

statutory notice u/s. 80 of C.P.C., mis-joinder of parties.....etc. It is the discretion of the Court to grant such permission and it can be granted either on an application of the plaintiff or even suo-motu. Such permission may be granted on such terms as to costs, etc. as the Court thinks fit.

5- In the present suit plaintiff moved application and requested to withdraw the suit conditionally.

6- Considering the submissions of plaintiff and on perusal of application below Exh. 6 it is clear that plaintiff wants to withdraw this suit conditionally. Grant of permission is discretionary. In such circumstances permission be granted to the plaintiff to withdraw the suit conditionally. Hence, I am inclined to pass following order:-

ORDER

1. Permission granted to withdraw the suit conditionally to file a fresh suit.
2. Suit stands disposed off as withdrawn.

Place : Sinnar.
Date : 20/03/2026

(**Shri. L. C. Wadikar**)
Civil Judge Junior Division,
Sinnar.