**APPLICATION UNDER ORDER *23,* RULE 1 C. P. C.**

IN THE MATTER OF....................

Suit ‘No..................... of 199....................

**In the Matter of: -**

AB.................................................................... Plaintiff

*versus*

CD................................................................ Defendant

**Most Respectfully Showeth:**

1. That it is submitted that the present suit has been instituted for the removal of.................... who has been impleaaded as defendant without obtaining the requisite permission of.................... as stipulated under Section 92 of the CPC.

2. That on account of the said defect the suit will fail.

**PRAYER**

It is most respectfully prayed that the applicaant-plaintiff may kindly be permitted to withdraw the present suit so as to institute a suit in respect of the same cause of action after obtaining necessary permission of.................... as stipulated under Section 92 CPC.

It is prayed accordingly. Applicant

Through Advocate

Place:....................

Dated:....................

**AFFIDAVIT**

IN THE COURT OF........................................

Suit No..................... /200

**IN THE MATTER OF**

AB................................................... Plaintiff/Petitioner

versus

CD............................................ Defendant/Respondent

**AFFIDAVIT**

I................................................................ resident of.......................................... ................................................. do hereby solemnly affirm and declare as under: -

1. That I am the............................................. in this case and hence competent to swear this affidavit.

2. That the contents of the accompanying application are true and correct.

**DEPONENT**

**VERIFICATION**

Verified at.......................................... on this............................ day of ........................................... that the contents of the above affidavit are true and correct to my knowledge.

**DEPONENT**

**FILING OF FRESH SUIT IN RESPECT OF SAME SUBJECT MATTER WITHOUT LEAVE OF COURT**

***Order 23, Rules 1(3) and (4) and Order 2, Rule 2***

Under sub-rule (4) of Order 23, Rule 1, when plaintiff withdraws from the suit without permission to file fresh suit for the same subject matter as contemplated under sub-rule (3) then such plaintiff is precluded from filing any fresh suit in respect of the same subject matter.1

1. Smt. Nirwala v. Hari Singh, AIR 2001 Himachal Pradesh.