

GAHC010065902023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CRP/40/2023

MD. KHALIL ULLAH KHAN
S/O LATE BABU KHAN, R/O B.G. ROAD, WARD NO. 13, SIVASAGAR TOWN,
P.O.-SIVASAGAR, P.S.-SIVASAGAR, DIST-SIVASAGAR, ASSAM, PIN-785640

VERSUS

MD. AYUB ALAM
S/O MD. SUBHAN REZVI, R/O WARD NO. 2, DHAI ALI, SIVASAGAR TOWN,
P.O.-SIVASAGAR, P.S.-SIVASAGAR, DIST-SIVASAGAR, ASSAM, PIN-785640

Advocate for the petitioner(s): Mr. AR Shome

Advocate for the respondent(s): Mr. A Ikbai

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH

22.04.2024

This is an application under Section 115 of the Code of Civil Procedure, 1908 (for short, the Code) challenging the rejection of the application vide order dated 10.03.2023 by the Court of the learned Munsiff No.1, Sivasagar in Title

Suit No.41/2022.

2. Mr. AR Shome, the learned counsel for the petitioner submits that he would not like to press the instant application taking into account the provisions of Section 10 of the Code. Accordingly the instant application stands closed on withdrawal.

3. The learned counsel for the petitioner further submits that withdrawal of the instant application should not preclude the petitioner from filing an application under Section 10 of the Code seeking stay of the suit pending disposal of the appeal being Title Appeal No.2/2021 before the Court of the learned District Judge Sivasagar. This Court observes that the withdrawal of the instant application shall not prejudice the rights of the petitioner, who is the defendant in the suit to file appropriate application seeking stay of the subsequently filed suit. It is further observed that if such an application is filed, the learned Court below shall duly consider the same in accordance with law without being influenced by the observations made herein.

4. This Court further vacates the order dated 31.03.2023 and taking into account that the parties are duly represented, the parties are directed to appear before the learned Trial Court on 20.05.2024 for further proceeding in Title Suit No.41/2022.

5. With the above, the revision petition stands disposed of.

JUDGE

Comparing Assistant