

45 04.02.2021
as

F.A.T.290 of 2016

**M/s. Sudip Construction & Anr.
Vs.
Manoj Kumar Chatterjee & Ors
with
CAN 3 of 2017 (Old CAN 5648 of 2017)
with
CAN 4 of 2018 (Old CAN 10218 of 2018)**

Mr. Prantick Ghosh.

...for the Appellants.

Despite service, there is no representation on behalf of the respondents.

Let affidavit of service filed in Court today be kept on record.

The learned Advocate-on-record of the appellants submits on instruction received from his client that his client does not intend to proceed with the instant appeal. He further submits that pursuant to the order dated 26th April, 2017, an application for stay was disposed of directing the appellants to deposit a sum of Rs.4,41,000/- together with an interest of 6% per annum from the date of the suit till realisation. The aforesaid amount has been deposited in the treasury of this Court vide a Challan No.265 dated 5.5.2017. It further appears that the said amount has been invested in an interest bearing fixed deposit with

the ICICI Bank, R. N. Mukherjee Road Branch and we believe that the same must have been renewed from time to time.

Though the instant appeal arises from a money decree passed by the trial court but we do not find any appearance from the respondents despite the service have been effected upon them. It is further informed to us by the learned Advocate-on-record of the appellants that the respondents have not put the decree in execution as of this date and, therefore, are not interested in pursuing the matter any further. Since the appellants do not intend to proceed with the matter and the carriage of the proceedings is lying with them, we do not find any impediment in permitting the appellants not to proceed with the instant appeal.

The instant appeal is thus dismissed as not pressed. The amount deposited by the appellants in terms of the order dated 26th April, 2017 shall be returned to the appellants with accrued interest thereupon within two weeks from the date of the application lying with the Registrar General of this Court. The Registrar General, if the occasion so arises shall make the premature withdrawal of the fixed deposit for the purpose of

disbursement and the said amount to the said appellants within the time indicated hereinabove.

Let the written instruction received by the learned Advocate-on-record of the appellants be kept on record.

In view of the withdrawal of the appeal, all connected applications have become infructuous and are accordingly disposed of.

(Harish Tandon, J.)

(Kausik Chanda, J.)