

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

CO 124 of 2023

Tapan Kumar Mondal @ Tapan Mondal
Vs.
Debdas Mondal & Ors.

Mr. Sourav Sen
... For the petitioner

This revisional application is directed against the order no.51 dated 18th November, 2022 in connection with Title Suit no.347 of 2013 passed by the learned Civil Judge (Senior Division), First Court at Barasat.

Learned advocate appearing on behalf of the petitioner has submitted that the plaintiff filed an application for withdrawal of suit for non-prosecution on account of advanced age of the plaintiff and no liberty was sought for. It is further contended that the learned Civil Judge (Senior Division) refused the prayer on the ground that filing a fresh suit may be avoided by making application for amendment. Learned advocate appearing on behalf of the petitioner has submitted that no such liberty to file the suit afresh was made in the application.

However, on careful perusal of the copy of the application dated 5th March, 2020, I find nothing embodied in the application praying for liberty to file suit afresh on the ground of any mistake or error. Therefore, I find no

reason to stand in the way of withdrawal of suit while no prayer for liberty to file suit afresh was made.

In the premise set forth above, the order no.51 dated 18th November, 2022 is not sustainable in law. Accordingly, the order no.51 dated 18th November, 2022 stands set aside.

Learned Civil Judge (Senior Division), First Court at Barasat is requested to dispose of the application filed by the plaintiff on 5th March, 2020 in its proper perspective.

With the above observation, the revisional application stands disposed of.

A copy of this order be forwarded to the learned Civil Judge (Senior Division), First Court at Barasat immediately.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Bibhas Ranjan De, J.)