

04 07.05.24

Ct. No. 04

akd

F.M.A. 243 of 2023

Neeraj Bajoria & Ors.

Vs.

Pawan Kumar Todi & Ors.

Mr. Varun Kothari,

Mr. A. Agarwalla,

Mr. B. N. Joshi,

Mr. D. Mukherjee.

... for the appellants.

Mr. Reetobroto Mitra,

Ms. Radhika Singh.

... for the respondent

nos. 1 to 9.

The matter is mentioned before us by the appellants that they do not intend to proceed with the instant matter and want to withdraw the same.

The letter indicating such intention is addressed to the learned Advocate on record of the appellants on 12th April, 2024. The tenet of the said letter reveals that the appellants intend to withdraw the matter unconditionally and further convey their intention to withdraw the suit pending before the learned Civil Judge (Senior Division), 2nd Court at Alipore.

Let the photocopy of the communicating letter dated 12th April, 2024 be taken on record.

Since the instant appeal arises from an interlocutory order passed in the said suit and the suit being not before us, it is not advisable that this Court in a Miscellaneous Appeal could permit the suit to be withdrawn. Furthermore, this Court is not in seisin of the said suit, which is pending in the Trial Court, and, therefore, we do not think that such composite request can be acceded to.

Since the instant appeal is sought to be withdrawn, there is no fetter on our part to respect such decision of the litigant in permitting them to withdraw the instant appeal.

Accordingly, the instant appeal is dismissed as withdrawn. The interim order, if there be any, passed in the instant appeal is hereby vacated.

Liberty is granted to the appellants to approach the Trial Court for similar reliefs.

(Harish Tandon, J.)

(Madhuresh Prasad, J.)