

03.12.2024
Ct. No. 22
Sl. No.74
KB

**In The High Court at Calcutta
Civil Revisional Jurisdiction
Appellate Side**

C.O. 1234 of 2022

**Smt. Neoti Pal and others
-versus-
Smt. Geeta Mondal & Ors.**

**Mr. Soumik Ganguli,
Mr. Tanmoy Mukherjee.
... For the petitioners.**

**Mr. Kushal Chatterjee,
Mr. Debrup Choudhury.
...For the Opposite Parties.**

1. This revisional application has been filed assailing the order dated 9th December, 2021 passed in Title Appeal No.08 of 2015 wherein Learned Additional District Judge, Fast Track Court, Bankura refused the prayer for withdrawal of the suit under Order 23 Rule 1 of the Code of Civil Procedure.

2. Heard both the learned counsel appearing on behalf of the parties to the revisional application.

3. Learned counsel appearing on behalf of the petitioners in his usual fairness again, has submitted that the petitioners filed one application under Order 23 Rule 1 of the Code of Civil Procedure with prayer for withdrawal of the Title Suit No. 96 of 2019 (Original No.

29 of 2007) which was disposed of on merit by the learned Trial Judge.

4. Learned appellate court refused the application holding, inter alia, that cause of action of the original suit took place in the year 2007 whereas the plaintiffs/appellants alleged that the cause of action for recovery of khas possession took place in the year 2015.

5. Learned counsel appearing on behalf of the opposite parties also relied on the contents of the petition under Order 23 Rule 1 read with Section 151 of the Code of Civil Procedure filed by the petitioners as well as the order impugned in this revisional application.

6. The application under Order 23 Rule 1 of the Code of Civil Procedure was rightly dealt with by the learned appellate court by the order of refusal as petitioners have made a prayer for withdrawal of a suit which has already been disposed of.

7. Learned counsel appearing on behalf of the petitioners has submitted that liberty may be granted to withdraw the appeal. But the petitioners always have the liberty to withdraw the appeal at any point of time.

8. However, I do not find any illegality or infirmity in the order impugned in this revisional application to invoke the power under Article 227 of the Constitution of India.

9. With the aforesaid observations, the revisional application stands dismissed.

10. Interim order, if there be, any stands vacated.

11. All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.

12. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Bibhas Ranjan De, J.)