

10.09.2024
Item No.10 DL
Ct.19
A.J.

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 3032 of 2024

Salim Akhtar

-Vs-

**East Calcutta Land Development
Co. Private Limited & Ors.**

Mr. Sanjay Mukherjee,
Mr. Saurav Chaudhuri.
.....for the petitioner.

The instant application under Article 227 of the Constitution of India is at the instance of the defendant no.29 in a suit for declaration and other consequential reliefs and is directed against the order dated May 10, 2024 passed by the 4th Court of the of the learned Civil Judge (Senior Division) at Alipore, District : 24-Parganas (South) in the said suit being Title Suit No. 1376 of 2023.

The learned Trial Judge by the order impugned has allowed the plaintiff to withdraw the said suit but has refused to grant leave to file a fresh suit on the selfsame subject matter.

Mr. Mukherjee, learned Advocate for the petitioner submits that the permission was obtained on the allegation that the parties have arrived at a settlement but there was no such settlement, therefore, according to him, the plaintiff is not entitled to the permission to withdraw the said suit.

Permission to withdraw a suit cannot be granted to defeat the right accrued to a defendant during the pendency of the suit, but in the instant case, the situation is not so, therefore, the order impugned does not call for any interference.

C.O. 3032 of 2024 is dismissed without any order as to costs.

Urgent Photostat certified copies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)