

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

03 26.4.2024

FAT 2 of 2022

Ct-01

**Pradip Kumar Sarkar
Vs.
Subhas Chandra Sarkar & Ors.**

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Mr. Dipankar Sen
Mr. Arijit Ghosh
... For the Appellant

1. Learned counsel appearing for the appellant submits that leave may be given to the appellant to withdraw the appeal with liberty to take appropriate steps in accordance with law.
2. It appears that the appeal is directed against a final decree passed by the learned Trial Court accepting the report of the Survey Commissioner. The grounds are taken primarily against the observation made by the learned Trial Court with respect to the acceptance of the report filed by the Survey Commissioner. It is contended that the order may be revisable and not appealable. Moreover, it appears that the final decree has not been drawn up on non-judicial stamp paper.
3. In view of the fact that the appeal is not maintainable on the aforesaid ground we dismiss the appeal being FAT 2 of 2022 with liberty to the appellant to take appropriate steps in accordance with law.

4. We make it clear that we have not gone into the merits of the matter.
5. The original certified copy of the impugned decree shall be returned to the learned advocate for the appellant by the department after retaining a photocopy of the same in the record.
6. There will be no order as to costs.

(Soumen Sen, J.)

(Partha Sarathi Sen, J.)

