

MACC 13 of 2020

Order dated 30.06.2026

Today is fixed for hearing under order 23 rule 1 CPC.

Both the petitioner and the OP filed memo of appearance through his ld counsel.

Ld counsel for the petitioner and the OP are present.

The petitioners filed an application on 25.07.2025 praying for withdrawing the present suit. Copy of the application has been served upon the Ld counsel for the OP.

The petitioner NO. 1 had been examined on oath as P.W. 1. It has been submitted in evidence that the petitioner is not willing to proceed with this claim case since the petitioner wants to file a fresh case.

The petitioner's application for withdrawal of the suit under order 23 rule 1 C.P.C. is taken up for hearing.

It is submitted by the ld counsel for the petitioners that this application to withdraw the present case has been filed since there are formal defects in the claim application and the petitioners intend to file a fresh claim case under section 164 of MV Act. The continuation of this case under section 166 MV Act will serve no purpose. Thus, the petitioners does not intend to proceed with the present case.

On perusing the record it appears that the petitioners had filed this suit under section 166 of MV Act praying for compensation on account of death of the victim Ananda Mandal

Heard. Considered. Perused.

Upon considering the submission made by the Ld. Advocate appearing on behalf of the petitioners and the statements made by the petitioner No. 1 on oath, this court is inclined to allow the prayer of the petitioners. The petitioners are allowed to withdraw the present case with liberty to file afresh under section 164 of MV Act.

Hence, it is,

Ordered,

that the application of the petitioners for withdrawing the instant claim case is hereby allowed with liberty to file afresh.

Addl. Dist. & Sessions Judge, F.T.C. -1,

Alipurduar.

J.O. Code W.B. 01009