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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 2564/2010**

NIRULA HANDICRAFTS BAZAR (P) LTD Petitioner

Through **Mr.Amit Sethi, Advocate.**

versus

UNION OF INDIA & ORS. Respondents

Through **Mr.Vivekanand Mishra, Advocate for
R- 1 & 2.**

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

% **25.01.2016**

C.M.No.2472/2016

Keeping in view the averments in the application, the same is allowed and writ petition is restored to its original position.

Accordingly, the present application stands disposed of.

W.P.(C) No.2564/2010

Learned counsel for the respondents points out that the petitioner had furnished an affidavit dated 14th September, 2015, in which he had undertaken to withdraw the present case on the next date of hearing without prejudice to its rights. The relevant portion of the affidavit dated 14th September, 2015 filed by the petitioner is reproduced hereinbelow:-

“4. We shall withdraw the said case as the next date of hearing without prejudice to our rights. In case the L&D.O

rejects our application, we shall be entitled to file the case for the said demand raised by L & DO in the said case.”

Though, today learned counsel for the petitioner contends that the undertaking to withdraw the petition was a formality, yet this Court is of the view that, as it is given by way of an affidavit, it has legal sanctity. If such affidavits are filed as a matter of procedure and only to be followed in breach, then this Court is of the view that the petitioner needs to be prosecuted under Section 340 Cr.P.C.

At this stage, Mr.Amit Sethi, learned counsel for the petitioner states that the petitioner would abide by the contents of the affidavit dated 14th September, 2013.

Consequently, the present writ petition is dismissed as withdrawn and the amount deposited by the petitioner with this Court is directed to be released to the respondent along with accrued interest, if any. Needless to say that the amount released to the respondent shall be adjusted against the demand due and payable by the petitioner.

The petitioner is given liberty to challenge the new demand, if any raised, by the L & DO in accordance with law.

MANMOHAN, J

JANUARY 25, 2016
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