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IN THE HIGH COURT OF DELHI AT NEW DELHI

CS(OS) No.76/2010, CCP(O) No.95/2011, CCP(O) No.125/2011, IA No.7673/2015 (u/O XXII R-4 CPC), IA No.599/2010 (u/O 39 R-1&2 CPC), IA No.882/2010 (u/S 151 CPC), IA No.7907/2012 (for filing additional documents), IA No.5357/2013 (u/O 39 R-4 CPC), IA No.9817/2013 (u/O 39 R-2A CPC), IA No.18365/2013 (u/O 11 R-12&14) and IA No.2738/2014.

KOHLI ONE HOUSING & DEVELOPMENT PVT LTD..... Plaintiff
Through: Mr. Shailen Bhatia & Ms. Priyanka Anand, Advs.

Versus

C.S. AGARWAL AND OTHERS Defendants

Through: Mr. Abhijat & Mr. Rishabh Bansal,
Advs. for D-1&3.
Mr. Ajay Bansal, Adv. for D-A,B&D.

AND

+ CS(OS) 475/2011, IA No.17296/2013 (u/O I R-10 CPC) & OA No.322/2015.

KOHLI ONE HOUSING & DEVELOPMENT PVT LTD..... Plaintiff
Through: Mr. Shailen Bhatia & Ms. Priyanka Anand, Advs.

Versus

C.S. AGARWAL & OTHERS Defendants

Through: Mr. Abhijat & Mr. Rishabh Bansal,
Adv. for D-1,3&4.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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01.08.2016

1. The counsels point out that though on 29th July, 2016 this Court has passed a common order in both the suits but the order should be read only in CS(OS) No.475/2011 and not in CS(OS) No.76/2010, from an order wherein FAO(OS) No.280/2014 is pending.

2. The aforesaid is taken note of.

CS(OS) No.76/2010

3. List on 8th December, 2016.

CS(OS) 475/2011

4. The counsel for the plaintiff, for the reasons recorded in the order dated 29th July, 2016, seeks to withdraw this suit with liberty to file a fresh suit for appropriate reliefs.

5. The counsel for the defendants No.1,3&4 states that the plaintiff is always entitled to file the suit for appropriate relief and needs no liberty from this Court.

6. Even if that be so, to avoid any confusion in the suit to be filed, it is made clear that the plaintiff, after withdrawal of this suit, would be entitled to file another suit *inter alia* for the same relief as claimed in this suit but in accordance with law.

7. The suit is thus dismissed as withdrawn with liberty aforesaid.

8. Needless to state all defences shall remain open to the defendants upon a fresh suit being filed.

9. The counsel for the plaintiff seeks refund of the court fees.

10. Payment of court fees does not entitle the plaintiff to have a suit pending in this Court for tens of years.

11. Once a misconceived suit is filed and the Court has informed the plaintiff of the same and the plaintiff being still within limitation is entitled to take appropriate remedy, no ground for refund of court fees is made out.

12. The said request is thus declined.

13. Needless to state that all pending applications and OA No.322/2015 also stand disposed of.

RAJIV SAHAI ENDLAW, J

AUGUST 01, 2016
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