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

+ **CS(OS) 2301/2014**

VEENA NAGPAL

..... Plaintiff

Through: Mr. Samit Khosla, Advocate with
plaintiff in person.

versus

ANAND KUMAR KAPOOR AND ANOTHER Defendants

Through: Mr. Vikas Arora, Advocate with
Ms. Radhika Arora, Mr. Mohit Taneja,
Mr. Abhishek Verma and Mr. Kunal Yadav,
Advocates alongwith defendants No.1 and 2 in
person.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

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12.07.2016

1. The present suit for partition, declaration and permanent injunction has been instituted by the plaintiff against her brother and sister-in-law (defendants No.1 & 2) in respect of movable and immovable assets of late Shri Baij Nath Kapoor, father of the plaintiff and the defendant No.1.
2. Counsels for the parties state that apart from the present suit, the defendant No.2 has filed a probate petition for seeking probate of the document dated 14.11.2013 stated to be the last will and testament of Shri Baij Nath Kapoor. The said petition, registered as TEST CAS. 115/2014 is listed at Sr.No.34 in today's cause list. They state that during the pendency of both the proceedings, the parties had agreed to submit themselves to mediation and pursuant thereto, a Settlement Agreement dated 22.05.2015 was executed by all the parties, whereunder the defendant No.2 had agreed to pay a sum of Rs.1.25 crores to the plaintiff in full and final settlement of all her claims in respect of the estate of late Shri Baij Nath Kapoor and his

wife, Smt. Pushpa Kapoor. It is submitted by learned counsels that the entire agreed amount of Rs.1.25 crores has already been received by the plaintiff and in terms of clause 8 of the Settlement Agreement dated 22.05.2015, wherein the plaintiff had undertaken to withdraw the present suit in view of the settlement arrived at. The original Settlement Agreement dated 22.05.2015 has been placed in the file of the TEST CAS. 115/2014 and a true copy thereof is handed over by the counsels for the parties and is taken on record.

3. In view of the aforesaid submission, counsel for the plaintiff seeks leave to withdraw the present suit.

4. Ordered accordingly. The present suit is dismissed as withdrawn in view of the settlement arrived at between the parties and recorded in the Settlement Agreement dated 22.05.2015.

5. At this stage, counsel for the plaintiff states that in view of the fact that the parties have been able to arrive at a negotiated settlement through mediation before the suit had reached the stage of recording of evidence, the plaintiff is entitled to claim refund of the court fees in terms of Section 16 of the Court Fees Act.

6. In view of the aforesaid submission made by the counsel for the plaintiff, the Registry is directed to issue a certificate in favour of the plaintiff for refund of the court fees, as per law.

7. The suit is disposed of alongwith the pending application.

HIMA KOHLI, J

JULY 12, 2016/rkb