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

+ CS(COMM) NO.931/2016 & IAs No.8781/2016 (u/O 39 R-1&2 CPC) & 8783/2016 (u/O 26 R-9 CPC)

BAJAJ CORP LTD Plaintiff

Through: Mr. Piyush Joshi, Adv.

Versus

VASHIM & ANR Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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03.10.2016

1. The counsel for the plaintiff states that the amount of Rs.7,500/- has been deposited with UCO Bank and the costs will be deposited with the Delhi High Court Bar Association Lawyers' Social Security and Welfare Fund today itself and he will furnish proof of that to the Court Master.
2. If the proof of payment of costs is not furnished, the Court Master to re-list the matter.
3. The counsel for the plaintiff seeks to withdraw the suit.
4. Dismissed as withdrawn.
5. The counsel for the plaintiff seeks refund of court fees.
6. This suit came up for admission on 27th July, 2016, when upon queries being made to the counsel for the plaintiff as to the maintainability of the suit, the suit was got adjourned.
7. Now the suit has been withdrawn.

8. The plaintiff having filed a misconceived suit has to suffer. There is no provision in the Court Fees Act, 1870 for refund of court fees on withdrawal of the suit after being unable to satisfy the court as to maintainability / admissibility of the suit. Such withdrawal is merely to avoid dismissal. No case for invoking the inherent powers of the Court for directing such refund is also made out as the plaintiff is found to have taken a chance to embroil the defendants in frivolous litigation and having failed at threshold in such a judicial misadventurism cannot in equity claim to be put back in the same position.

RAJIV SAHAI ENDLAW, J.

OCTOBER 03, 2016

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