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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) NO.406/2016 & IA No.9914/2016 (u/O 39 R-1&2 CPC)**
ASHWANI AGGARWAL Plaintiff
Through: Mr. Arav Kapoor & Mr. Divyadeep
Chaturvedi, Advs.

Versus

PRATEEK NAGPAL & ORS Defendant
Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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03.10.2016

1. This order is in continuation of the earlier orders dated 17th August, 2016 and 14th September, 2016.
2. The counsel for the plaintiff has handed over in the Court the receipt of deposit of cost imposed on 14th September, 2016. The same is taken on record.
3. The counsel for the plaintiff withdraws the suit.
4. Dismissed as withdrawn.
5. No cost.
6. The counsel for the plaintiff seeks refund of court fee paid on the suit.
7. 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

‘gsr’ ..