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

+ **FAO(OS) (COMM) 65/2017 and CM APPL. 10817-18/2017**

JANUKI KUMARI J B RANA & ORS Appellants
Through: Mr. C.M. Lall, Senior Advocate with
Ms. Nancy Roy, Mr. Pranay Sarkar and Mr. Jeetu
Sharma, Advocates

versus

ASHOK KUMAR & ANR Respondents
Through: None

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER
% **21.04.2017**

CM APPL. 15047/2017 (by the appellants u/O XXIII R 1 CPC)

1. The present application has been filed by the appellants praying *inter alia* for liberty to withdraw the appeal on the ground that on subsequent investigation, it was revealed that the respondents have already closed down their operations at the premises identified by the appellants/plaintiffs.
2. A perusal of the order dated 23.03.2017 shows that while issuing notice in the appeal, at the request of the counsel for the appellants, three Local Commissioners were appointed to visit the markets so as to identify the shoes with the impugned trademarks, referred to in para 6 of the said order.

3. Mr. Lall, learned Senior Advocate appearing for the appellants states that before the Local Commissioners could be approached for executing the commissions, it had transpired that the respondents/defendants have left the premises in question and therefore, it would have been a futile exercise to proceed further for execution of the commissions. We are informed that the appellants also propose to withdraw the suit, registered as CS(COMM) 77/2017, out of which the present appeal arises.

4. For the reasons stated above, leave as prayed for, is granted. The present appeal is dismissed as withdrawn alongwith the pending applications.

5. The date fixed in this case, i.e., 04.05.2017 stands cancelled.

6. Liberty is granted to the appellants to file an appropriate application in the suit for seeking withdrawal of the said proceedings.

HIMA KOHLI, J

SANGITA DHINGRA SEHGAL, J

APRIL 21, 2017

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