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

+ CS(OS) 165/2017

MR. RAMA SHANKER KHANNA Plaintiff

Through: Mr. Arjun Singh Bawa, Ms. Ambika
Vohra and Ms. Vishakha Gupta,
Advocates

versus

M/S SALUJA CONSTRUCTION COMPANY
LIMITED Defendant

Through: None

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

ORDER

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03.05.2017

I.A.5444/2017

The present application under Volume IV, Chapter 4 (Court Fees & Stamps), Part A (Reduction, Remission & Refund of Court Fees), Rule 3 of the Delhi High Court Rules, has been instituted on behalf of the plaintiff praying as follows:-

- “a) Pass an order issuing a certificate, stating that the
plaint has been returned as the Hon’ble Court does not
have the jurisdiction to entertain the present suit;
The plaintiff is entitled to present the plaint before the
court of competent jurisdiction in Gurugram, where the
property is situated;
The value of the stamp as mentioned in the court fees
shall be returned to the plaintiff on presentation of an
application to the concerned authority, which is
responsible for the refund of the value of stamp as
mentioned in the court fees.
- b) Pass any other order which the Hon’ble Court may
deem fit.”

This Court by way of order dated 13.07.2017 had permitted the plaintiff to withdraw the suit and present a plaint before the court of competent

jurisdiction i.e. Gurugram, where the property which is the subject matter of the suit is situate.

It is, therefore, submitted on behalf of the applicant/plaintiff that in terms of the above said referred Rule, the value of the stamp ought to be returned to the applicant/plaintiff.

In this behalf, learned counsel appearing on behalf of the applicant/plaintiff has invited attention of this Court to Volume 4, Chapter IV, Part , Rule 3 of the Delhi High Court, which reads as follows:-

“3. To direct that, when a plaint disclosing a reasonable case on the merits is presented to any civil or revenue court in such a form that the presiding Judge or officer without summoning the defendant rejects it, not for any substantial defect but on account of an entirely technical error in form only, and so as to leave the plaintiff free to prosecute precisely the same case in another form against the same defendant or defendants, the value of the stamp on the plaint shall be refunded on presentation of an application to the Collector of the district in which the court is situated, together with a certificate from the Judge or officer who rejected the plaint that it was rejected under the circumstances above described, and that the value of the stamp should, in his opinion, be refunded.”

A plain reading of the above provision would show that if the plaint is returned to be instituted before Court of competent jurisdiction, the Court Fee affixed thereupon ought to be refunded.

In view of the foregoing, the present application is allowed. The Registry is directed to issue a Certificate, indicating that as the plaint was returned to be filed before the court of competent jurisdiction over the subject matter of the suit; the value of the stamp be, therefore, refunded.

With the above directions, the application is disposed of.

SIDDHARTH MRIDUL, J

MAY 03, 2017

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