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

+ RFA 3/2014 and CM APPL. 187/2014, 929/2014

MOHD KAMIL Appellant

Through: Mr. Avinash Trivedi, Advocate

versus

NIHAR DASS Respondent

Through: Mr. Mukesh M. Goel, Advocate with
respondent in person.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

12.01.2017

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CM APPL. 558/2017 (joint application u/O XXIII R 3 CPC)

1. The present application has been jointly filed by the parties stating *inter alia* that during the pendency of the appeal, they have been able to arrive at an out of court settlement.
2. Counsels for the parties state that a sum of Rs.7,61,381/- was deposited by the appellant in the shape of a FDR, which is available on the record. The parties have agreed that after the FDR is released by the Registry to the appellant and encashed, a sum of Rs.7 lacs shall be released by the concerned Bank directly in favour of the respondent and the balance amount with upto date interest shall be refunded to the appellant.
3. The Court has perused the present application. The same has been signed by the appellant, the respondent and their respective counsels and is supported by the affidavits of the signatories to the application.
4. As counsels for the parties jointly state that their clients have arrived

at the aforesaid settlement of their own free will and volition and without any undue influence or coercion from any quarters, there appears no legal impediment in accepting the said settlement. The parties shall remain bound by the terms and conditions of the settlement as recorded in the application.

5. The appellant shall approach the Registry through his counsel for release of the FDR and thereafter present the same to the issuing bank, namely, Punjab National Bank, F-Block, Vikas Puri Branch for encashment. From out of the maturity amount, the said bank shall issue a cheque for a sum of Rs.7 lacs directly in favour of the respondent and then remit the balance amount into the appellant's account alongwith the interest that may have accrued thereon.

6. The application is allowed and the appeal is disposed of alongwith the pending applications.

7. Trial court record be released forthwith.

8. At this stage, learned counsel for the appellant states that in view of the fact that the parties have arrived at an out of court settlement, the appellant is entitled to claim refund of the court fees in terms of Section 16-A of the Court Fees Act.

9. In view of the aforesaid submission made by the counsel for the appellant, the Registry is directed to issue a certificate in favour of the appellant for refund 50% of the court fees, as per law.

10. File be consigned to the record room.

HIMA KOHLI, J

JANUARY 12, 2017

rkb/mk