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

+ **CS(OS) 1524/2015 & I.A. No.3804/2017**

RAHUL GAUTAM Plaintiff

Through: Ms. Shreya Som, Advocate.

versus

PRADUMAN PATEL Defendant

Through: Mr. Bhuvanesh Sehgal & Mr. Anubhav
Bhasin, Advocates.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

ORDER

% **21.04.2017**

I.A. No.3803/2017 (u/O XXIII Rule 3 CPC)

Learned counsel appearing on behalf of the plaintiff seeks leave to withdraw the application.

Leave granted. The application is dismissed as withdrawn.

I.A. No.4794/2017 (Order XXIII Rule 1 CPC)

Learned counsel appearing on behalf of the parties, state in unison, that the underlying dispute that led to the institution of the present suit has been amicably settled by and between the parties and the terms and conditions of the settlement are enshrined in the Settlement Deed dated 11.04.2017, which read as follows :-

“1. Rahul has decided to withdraw the suit filed against Praduman being C.S. (OS) 1524/2015, and Praduman has decided to withdraw the suit filed against Sheela Foam, Rahul and Sheela being C.S. (OS) 263/2016.

2. That Praduman has decided to forego the costs of INR 15,000/- awarded by the High Court of Delhi vide order dated November 16, 2016 and to be paid together by Sheela Foam, Rahul and Sheela in C.S. (OS) 263/2016, for codonation of delay in filing the written statement.

3. All complaints, allegations, grievances, etc. between the

parties in respect of the subject matter of suits C.S. (OS) 1524/2015 and C.S. (OS) 263/2016 are hereby unconditionally withdrawn and abandoned and no party hereto shall make against other party any kind of claim or action on any count whatsoever including towards damages, loss, breaches, etc. arising out of or in relation to or in respect of the subject matter of suits C.S. (OS) 1524/2015 and C.S. (OS) 263/2016.

4. This Deed contains the entire and final agreement between the parties hereto and supersedes all previous oral and/or written agreements/understandings between the parties.

5. The parties have agreed to file separate applications simultaneously under Order XXIII, Rule 1 of the Code of Civil Procedure, 1908 before the High Court of Delhi in their respective suits being C.S. (OS) 1524/2015 and C.S. (OS) 263/2016 after execution of the present Deed praying for withdrawal of both suits by 21.04.2017.

6. That the present settlement is based on mutuality of performance and if either of the parties fail to file the respective applications for withdrawal of suits against the parties to this Deed within the period as stipulated in clause 5 above, then in such eventuality the present Deed shall stand nullified and not executable and not binding upon the parties hereto.

7. That the parties hereby declare that they have obtained independent legal advice and they are executing this Deed with their own free will without any coercion, duress or fraud.

8. The Deed is being executed in six parts and one each is delivered to the parties hereto, and thereafter one each is being attached/filed along with the two applications under Order XXIII, Rule 1 of the Code of Civil Procedure to be filed in C.S. (OS) 1524/2015 and C.S. (OS) 263/2016.”

The said Settlement Deed dated 11.04.2017 entered into between the parties is lawful and the same is taken on record. The parties shall abide by the terms and conditions of the said Settlement Deed dated 11.04.2017, without demur.

In view of the settlement arrived at between the parties as aforesaid,

learned counsel appearing on behalf of the plaintiff seeks leave to withdraw the present suit with liberty to revive the same in the event, the defendant fails to comply with the terms and conditions of the aforesaid settlement.

Leave and liberty granted.

Consequently, the application is allowed and the accompanying suit is dismissed as withdrawn and disposed of accordingly.

On an oral prayer made by learned counsel appearing on behalf of the plaintiff, as out of court settlement has been arrived at between the parties, therefore, in terms of Section 16A of the Court Fees Act, 1870, the Registry is directed to refund the court fees to the plaintiff forthwith, in accordance with law.

SIDDHARTH MRIDUL, J.

APRIL 21, 2017
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