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

+ **CS(OS) 630/2016**

M/S SUMMIT APARTMENTS PVT LTD Plaintiff
Represented by: **Mr. Yogesh Saini, Advocate.**

versus

SH BHAGWAN DASS Defendant
Represented by: **None.**

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **22.09.2017**

I.A. No. 11176/2017 (under Order IX Rule 9 CPC)

1. By this application the plaintiff seeks restoration of the suit and application which was dismissed for non-prosecution on 8th September, 2017.
2. While dismissing the suit and application for non-prosecution this court noted that summons to the defendant have not been served. On 28th August, 2017 learned counsel for the plaintiff submitted to the court that the plaintiff has entered into a settlement and thus plaintiff wishes to withdraw the suit. However, since none was present in court on 8th September, 2017 the suit and application were dismissed for non-prosecution.
3. There is no need for issuance of notice of the application to the defendant for the reason the defendant was not served when the order dated 8th September, 2017 was passed.

4. For the reasons stated in the application that on 8th September, 2017 learned counsel for the plaintiff was stuck up in a matter going on before the Division Bench of this Court which took some time and learned counsel could not appear, the order dated 8th September, 2017 is recalled.

5. The suit and application are restored to their original position.

6. Application is disposed of.

I.A. No. 11177/2017 (under Section 151 CPC)

1. By this application the plaintiff seeks leave to withdraw the suit and the application as the parties have entered into a settlement,

2. Application is duly supported by the affidavit of Smt. Ramesh Kumari Bhardwaj authorised signatory of plaintiff, authorisation in whose favour is at page 4 of the documents file.

3. Application is disposed of permitting the plaintiff to withdraw the suit.

CS(OS) 630/2016 and I.A Nos. 16093/2016 (under Order XXXIX Rule 1 and 2 CPC)

Suit and applications are dismissed as withdrawn.

I.A. No. 11178/2017 (under Section 151 CPC)

Since the suit is at initial stage and summons have not be served on the defendant, the Court fee is directed to be returned to the plaintiff under Section 16A of the Court Fee Act.

MUKTA GUPTA, J.

SEPTEMBER 22, 2017/‘yo’