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

+ **CS(COMM) 84/2017**

K V PRATEEK ENTERPRISES Plaintiff
Through: **Mr. Amit Kumar, Advocate.**

versus

IL&FS ENGINEERING & ENGINEERING CONSTRUCTION
COMPANY LIMITED Defendant
Through

CORAM:
HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER
% **07.12.2017**

I.A. No.14513/2017 (under Section 16 of the Court-fees Act by plaintiff)

1. By this application, plaintiff seeks refund of court fee paid in the suit. It is argued that the suit has been referred to arbitration in terms of the order dated 11.5.2017, and therefore, plaintiff be refunded the court fee paid in the suit.

2. The application is completely misconceived because the provision of Section 16-A of the Court-fees Act, 1970 (as applicable to Delhi) comes into play when a suit is disposed of on account of settlement entered into between the parties prior to recording of evidence etc. There is no provision for refund of court fee where suit is in fact dismissed on

account of allowing of an application under Section 8 of the Arbitration & Conciliation Act, 1996 which is filed by the defendant.

3. In the present case by the order dated 11.5.2017 the application of the defendant under Section 8 of the Arbitration & Conciliation Act was allowed by dismissing the suit and referring the parties to arbitration and therefore the present is not a case which is covered under Section 16-A of the Court-fees Act. Section 89 of Code of Civil Procedure, 1908 (CPC) will not apply because Section 89 CPC applies when parties by consent got the matter referred to arbitration and which is also not the position in the present case in view of the order dated 11.5.2017 which allows the application under Section 8 of the Arbitration & Conciliation Act.

4. Dismissed.

VALMIKI J. MEHTA, J

DECEMBER 07, 2017

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