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

+ **CS(OS) 71/2018 & I.A.No.2413/2018**

USHA KIRAN EDUCATIONAL SOCIETY & ORS Plaintiffs

Through Mr.Abhijat with Mr.Abhishek
Agarwal, Advocates.

versus

PANKAJ KATHURIA & ORS Defendants

Through None

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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08.08.2018

Learned counsel for the plaintiffs states that the matter has been amicably resolved between the parties by way of an out-of-court settlement. In accordance with the said settlement, he has instructions to withdraw the present suit.

Consequently, the present suit is dismissed as withdrawn.

Learned counsel for plaintiffs prays for refund of the court fees.

This Court in *Aya Singh Tirlok Singh Vs. Munshi Ram Atma Ram AIR 1968 Delhi 249* has held as under:-

“(4)It is true that the Court-fees Act has made certain provisions for refund and it may be argued that the legislative intent should be held to exclude refund in other cases, but the formidable array of authorities upholding the inherent power of the Court to direct refund ex debito justitiae, impels us also to uphold the inherent power.

It must, however, be clarified that it is not every excess payment of court-fee which must be refunded as a matter of course. Apart from the mandatory provisions, the Court, in order to exercise its inherent power, has to consider the facts and circumstances of each case and come to a judicial determination whether or not the cause of justice requires refund.”

(emphasis supplied)

Consequently, Registry is directed to issue to the plaintiffs a certificate authorizing them to receive back from the Collector the half amount of the Court fee paid by them in the present suit.

MANMOHAN, J

AUGUST 08, 2018
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