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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS (OS) 2144/2014**

NEW DELHI TELEVISION LTD Plaintiff

Through: Mr. Atul Sharma, Mr. Siddharth Mehra & Ms. Saroj Anand Jha, Advocates (M-9891512350).

versus

THE MANUSHI TRUST & ORS Defendants

Through: Mr. J. Sai Deepak, Mr. Avinash K. Sharma & Mr. Ashutosh Nagar, Advocates for D-1 to 3 (M-9999666398).

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **08.10.2018**

I.A. 13461/2018 (U/o XXXIII Rule 1 CPC) in CS (OS) 2144/2014

1. This is an application by the Plaintiff for unconditionally withdrawing the present suit against the Defendants. For the reasons stated in the application, the withdrawal is permitted and suit is dismissed as withdrawn. All interim orders stand vacated.

2. The counsel for the Defendants presses for costs along with legal costs, in view of the fact that the Defendants were made to undergo this litigation. He relies upon *Surakshit Exports Private Limited and Ors. v. GCG Transglobal Housing Project Pvt. Ltd. (2012) 188 DLT 243*

3. The Learned counsel for the Defendants relies upon para 58 of the above judgment which reads as under:

“58. We, thus, conclude that there is no prohibition in law preventing plaintiffs from withdrawing the suit in

pursuance of the application under Order 23 Rule 1 of the said Code resulting in dissolving of all interim orders but the same would, of course, be subject to costs. The costs must be appropriate in such a case because the suit proceedings have dragged on for eleven (11) years and even appeals have arisen from interim orders. The defendant, thus, has spent considerable amount in litigation including engaging of senior counsels. It is a hard reality that the cost of litigation has escalated over a period of time, costs in such a situation must bear semblance to the actual costs incurred by the defendant. We therefore consider it appropriate to impose `5.00 lakh as costs on the plaintiffs to be paid to the defendant.”

4. The nature of the suit in the present case is that an article was published by the Defendant No.1 making various allegations against the Plaintiff media house. The suit was filed by the Plaintiff seeking an injunction against the alleged defamatory publication as also damages. On 1st August, 2014, Learned Senior Counsel appearing of the Defendant had made a statement to the following effect:

“...Mr. Jethmalani, on instructions, also says that till the next date of hearing, defendant Nos. 1 to 3 will not repeat the purported defamatory statements, which are the subject matter of the present suit.”

5. Vide order dated 19th July, 2018, the said ad interim order, which was subsisting, was made absolute during the pendency of the suit and the matter was thereafter put to trial.

6. The application for withdrawal of the suit contains the following averments:

“..."

3. That in the meantime, the management of the

Plaintiff has taken a conscious decision to reduce its litigations so as to concentrate more on its core area of journalism and news telecast and accordingly, a decision has been taken by the management of Plaintiff to withdraw the present Suit as against the Defendants.”

7. Since the reasons for the withdrawal are to bring closure to the disputes between the parties and there has been no adjudication on the merits of the matter at any stage, this is not a fit case for grant of costs.

8. Thus, the suit is dismissed as withdrawn with no orders as to costs.

PRATHIBA M. SINGH, J.

OCTOBER 08, 2018

Rahul