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

+ **CS(COMM) 313/2017 & I.A.No.4238/2018**

SHRI SUBHASH KATHURIA AND OTHERS Plaintiffs

Through Mr.Ravi Gupta, Sr.Advocate with
Mr.Ankit Jain, Advocate.
Shri Subhash Kathuria, P-1 in person.
versus

M/S NALLI TRUST & ANR Defendants

Through Mr.S.Gurukrishna Kumar,
Sr.Advocate with Mr.Aditya Verma,
Advocates and Mr.K.V.
Balasubramanian (AR of D-1/Trust)

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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02.05.2018

With consent of the parties, Mr.Pravin Anand, Advocate is appointed as the Mediator.

After speaking to the parties at some length, Mr.Pravin Anand – Mediator states that it would be fair and appropriate to settle the matter at Rs.2.75 crores. Learned counsel for the parties are agreeable to the same.

Consequently, the present suit is decreed in favour of the plaintiffs for a sum of Rs.2.75 crores. The defendants are directed to pay the said amount to the plaintiffs within a period of four weeks after deducting TDS. However, GST/CST/service tax shall be on account of the defendants. Before making any payment, the

defendants shall deduct Rs.58,68,450/- lying with the plaintiffs as refundable security deposit. Registry is directed to prepare a decree sheet accordingly.

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 also directed to issue to the plaintiffs a certificate authorizing them to receive back from the Collector the full amount of the Court fee paid by them in the present suit.

MANMOHAN, J

**MAY 02, 2018
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