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

+ **CS(OS) 656/2021**

FIITJEE LIMITED

..... Plaintiff

Through: Ms. Aayushi Jain and Mr. Mohit Gupta, Advocates.

versus

VIDYA MANDIR CLASSES LTD. & ORS.

..... Defendants

Through: Mr. Kartik Yadav, Mr. Parinay Vasandani and Ms. Sumedha Chadha, Advocates for D-1, D-3 to D-6 and D-8.

Mr. Harish Pandey, Mr. Anshuman Tiwari, Ms. R. Roshni and Ms. Supriya, Advocates for D-2.

Mr. Sauhard Alung, Advocate for D-9.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

15.03.2024

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Ms. Aayushi Jain, learned counsel appearing for the plaintiff submits, that they have amicably settled their disputes with defendants Nos.1 to 8 by way of an out-of-court settlement; and seeks leave to withdraw the present suit.

2. Ms. Jain also seeks refund of the entire court fee paid on the plaint, since the suit is being disposed-of in terms of the settlement, notwithstanding section 16A of the Court Fees Act, 1870 as applicable to Delhi.
3. It is seen that the suit is at the preliminary stage. Pleadings in the matter are complete; however, issues are yet to be framed and trial is yet to commence.



4. Though section 16A of the Court Fees Act, 1870 as applicable to Delhi, provides for refund of *only half* of the court fee if the matter is settled privately among the parties without intervention of the court or any alternate dispute resolution mechanism, it is noticed that in ***High Court of Judicature at Madras vs. M.C. Subramaniam & Anr.***¹, the Supreme Court has held, though in the context of the Tamil Nadu Court Fees and Suit Valuation Act 1955, that on a broad and purposive construction of section 89 of the CPC, the provision for refund of the *entire* court fee *shall also extend to all methods of out-of-court dispute settlement* between parties and not be limited to settlement arrived at through mediation.
5. It is also noticed that in order dated 16.08.2023 made by a Division Bench of this court in W.P.(C) No. 10235/2022 titled ***Praveen Kumar Agarwal vs. Union of India and Anr.***, the Division Bench had recorded a statement made by learned counsel appearing for the Government of NCT of Delhi ('GNCTD'), that in terms of a communication dated 14.08.2023 received from GNCTD, the department was contemplating necessary steps for repealing section 16A of the Court Fees Act, 1870 as applicable to Delhi, which permits refund of only half the court-fee paid in cases of out-of-court settlement.
6. It is seen, that as recorded in the Division Bench order, the decision of the GNCTD proceeded on the understanding that section 16A was creating an *arbitrary distinction* between persons who seek refund of

¹ (2021) 3 SCC 560



court fee under section 16 and those who seek refund under section 16A of the Court Fee Act. By the said order, the Division Bench had disposed-of the public interest litigation with the direction to the GNCTD to take appropriate consequential steps *within a period of 04 months* from that date *i.e.* 16.08.2023.

7. Regardless of whether or not any steps to that effect have been taken by the GNCTD so far, in view of the observations of the Supreme Court and of a Division Bench of this court as cited above, this court is persuaded to accept the plaintiffs' prayer; and it is accordingly directed that the *entire* amount of the court fee paid on the plaint shall be refunded to the plaintiff.
8. The Registry is directed to draw-up the requisite certificate for refund of the entire court fee, within 04 weeks from today.
9. In view of the above, the suit is disposed-of as withdrawn.
10. All pending applications also stand disposed of.

ANUP JAIRAM BHAMBHANI, J

MARCH 15, 2024/ak