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

+ **CS(COMM) 701/2025 & I.As. 16585/2025, 23966/2025, 23967/2025**

HERO INVESTCORP PRIVATE LIMITED

& ANR.

.....Plaintiffs

Through: Mr. Pramod Kumar Singh, Ms.
Aastha Sharma and Mr. Armaan
Bhardwaj, Advocates

versus

ASHOK KUMAR UNKNOWN

.....Defendant

Through: None

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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24.09.2025

I.A. 23966/2025 (seeking withdrawal of suit and refund of court fees)

1. This application has been filed by the Plaintiffs under Order XXIII Rule 1, read with Section 151 of the Code of Civil Procedure, 1908, seeking leave to withdraw the suit and seeking a refund of the entire court fee.
2. It is stated that there is already an injunction order dated 16.07.2025 operating in favour of the Plaintiff and it also permits execution of the local commission.
3. It is stated in the application that after the injunction order was corrected vide order dated 23.07.2025, the Delhi Police, in an independent action, carried out a raid in the neighbourhood in the geographical area where the Defendant's premises were located, and there was a seizure of counterfeit products.



4. He states that in view of the Delhi Police's raid, the Plaintiffs did not deem it appropriate to execute the local commission as it believes that counterfeit products would be unavailable at the premises.
5. He states that in these circumstances, the Plaintiffs seek to withdraw the suit.
6. This Court is not persuaded by the submissions recorded in this application.
7. A party cannot be at liberty to not serve the defendant and withhold the injunction order or not carry out local commission. This Court has already recorded its observations in this regard in the order dated 22.08.2025; however, since the plaintiffs have decided not to pursue this suit, the suit is dismissed. The averments made in the application fail to show any formal defect in the suit. The Plaintiff is seeking to withdraw the suit of its own violation and hence, no ground for liberty is made out.
8. In addition, the relief of refund of the court fee sought in the captioned application is hereby declined. The plaintiff's suit was entertained and orders passed in its favour; the plaintiff's unilateral action of seeking to withdraw the suit does not entitle it to the refund.
9. The suit is dismissed, without any liberty reserved.
10. Accordingly, pending applications stand disposed of.
11. Interim orders stand vacated.

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 24, 2025/rhc/aa