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

+ **CS(OS) 454/2025**

SHAWNTEL CONSULTANCY SERVICESPlaintiff

Through: Mr. Deepak K. Sharma, Mr. Neeraj
Kumar, Mr. Ashish Sharma and Mr.
Himanshu, Advs.

versus

NETSYS NETWORK PVT. LTD. & ORS.Defendants

Through: None.

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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15.01.2026

I.A. 1047/2026 (under Section 151 CPC by the plaintiff)

1. The present application has been filed by the plaintiff seeking direction to the Registry to adjust the court fee of Rs.2,10,000/- which was filed by the plaintiff alongwith the plaint of the present suit.
2. The learned counsel appearing on behalf of plaintiff invites attention of the Court to order dated 26.11.2025 whereby the plaint in present suit was returned to the plaintiff for presentation before proper court having competent jurisdiction.
3. He submits that the said order was necessitated for the reason that the present suit was filed as a summary suit, whereas, the same ought to have been filed as a commercial suit.
4. He submits that after the return of plaint, the plaintiff has filed



commercial suit *vide* diary no.9378498/2025, however, the Registry has raised an objection with regard to the court fee being deficient and the earlier court fee filed by the plaintiff alongwith the present suit has not been adjusted.

5. He submits that since the plaint was returned under Order VII Rule 10 CPC, therefore, the court fee affixed on the plaint of the present suit ought to have been adjusted.

6. To make good his submission, the learned counsel for the plaintiff has invited attention of the Court to the judgment of the Hon'ble Supreme Court in **ONGC Ltd. vs. Modern Construction and Co. 2013, SCC OnLine SC 924**, particularly to para 17 thereof, which reads thus:

*“17. Thus, in view of the above, the law on the issue can be summarised to the effect that if the court where the suit is instituted, is of the view that it has no jurisdiction, the plaint is to be returned in view of the provisions of Order 7 Rule 10 CPC and the plaintiff can present it before the court having competent jurisdiction. **In such a factual matrix, the plaintiff is entitled to exclude the period during which he prosecuted the case before the court having no jurisdiction in view of the provisions of Section 14 of the Limitation Act, and may also seek adjustment of court fee paid in that court.** However, after presentation before the court of competent jurisdiction, the plaint is to be considered as a fresh plaint and the trial is to be conducted de novo even if it stood concluded before the court having no competence to try the same.”*

(emphasis supplied)

7. The learned counsel for the plaintiff further submits that the present suit was filed *vide* diary no. 3914418/2025, therefore, the court fee has been locked *vide* said diary number and the same cannot be adjusted until and



unless appropriate directions are issued by this Court.

8. Having regard to the submissions articulated by learned counsel for the plaintiff, as well as, the law expounded by the Hon'ble Supreme Court in **ONGC** (supra), the Registry is directed to adjust the court fee to the extent of Rs.2,10,000/- which was affixed by the plaintiff on the plaint filed in the present suit, that was directed to be returned in terms of order VII Rule 10 of CPC *vide* order dated 26.11.2025.
9. The application stands disposed of.
10. Order *dasti* under the signatures of the Court Master.

VIKAS MAHAJAN, J

JANUARY 15, 2026
N.S. ASWAL