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

+ **W.P.(C) 820/2026 & CM APPL. 4065/2026**

**M/S RELIANCE PROJECT AND PROPERTY MANAGEMENT
SERVICE LTD**

.....Petitioner

Through: Mr. Shyam Kumar, Ms. Iqra Khan,
Ms. Kumari Ruchi and Mr. Kushank,
Advocates.

versus

SUB DIVISIONAL MAGISTRATE

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **21.01.2026**

1. The order dated 23.09.2025 passed by the District Judge, Commercial Court-01, Shahdara Distt, KKD, Delhi (the District Court) would indicate that the petitioner was granted liberty to file a counter-claim afresh and also to file an application for refund of the Court fees, before the Court of competent jurisdiction after withdrawal of the said original counter claim. It further records that the refund voucher could not be granted by the District Court.
2. It remains undisputed that *vide* order dated 23.10.2024 passed in CS (Comm) 513/2024, the District Court returned the counter-claim of the petitioner under Order VII Rule 10 of the Code of Civil Procedure, 1908, with liberty to file the same afresh.



3. The petitioner, thereafter, instituted a fresh civil suit. Since the petitioner has chosen not to file a fresh counter-claim, and has approached the Court in which the original counter-claim had been instituted. The said request should have been decided on merit. The petitioner cannot be compelled to necessarily file a counter claim when he has taken a conscious decision of filing of fresh civil suit and has admittedly paid the entire court fees as payable in a fresh civil suit.
4. In view thereof, the order dated 23.09.2025 seems to have gone on different tangent and does not specifically deal with the petitioner's grievance.
5. Accordingly, the same stands set aside and the District Court is directed to take up the application filed by the petitioner and to pass an appropriate order.
6. Petition stands disposed of.

PURUSHAINDR KUMAR KAURAV, J

JANUARY 21, 2026/P/AMG