



2025:DHC:3429



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 05.05.2025*+ **C.R.P. 186/2024 & CM Appl.35877/2024**

ANITA SHARMAPetitioner

Through: Mr. Rajeev Gupta, Adv.

versus

MUKANDI DEVI & ORS.Respondents

Through: Mr. C. Prakash, Mr. Shrey Tanwar,
Mr. Abhishek Rana, Ms. Mansi
Shukla and Mr. Manav Kumar, Advs.**CORAM:****HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. The present Petition has been filed under Section 115 of the Code of Civil Procedure, 1908 (CPC) impugning the order dated 03.05.2024 [hereinafter referred to as "Impugned Order"] passed by the learned ADJ-01, North East, Karkardooma Courts, Delhi. By the Impugned Order, the Application filed on behalf of the Respondents (Defendants before the learned Trial Court) under Order VIII Rule 1 read with Section 151 of the CPC was allowed.

2. The maintainability of this Petition is a subject matter of challenge. It is no longer *res integra* that the provisions of Section 115 of the CPC cannot be invoked except where an order is made in favour of the revisionist would have finally disposed of the suit or proceedings. This is set out in the proviso to Section 115 of the CPC, which is below:

"Section 115 – Revision

The High Court may call for the record of any case which has been



decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate Court appears

(a) to have exercised a jurisdiction not vested in it by law, or

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the High Court may make such order in the case as it thinks fit:

Provided that the High Court shall not, under this section, vary or reverse any order made, or any order deciding an issue, in the course of a suit or other proceeding, except where the order, if it had been made in favour of the party applying for revision would have finally disposed of the suit or other proceedings.

[Emphasis Supplied]

2.1 The Supreme Court in *Shiv Shakti Coop. Housing Society, Nagpur v. Swaraj Developers & Ors.*¹ has held that unless the order is given in favour of the party applying for the revision would have given finality to the suit or other proceeding, a revision is not maintainable. The relevant extract of the *Shiv Shakti* case is set out below:

“32. A plain reading of Section 115 as it stands makes it clear that the stress is on the question whether the order in favour of the party applying for revision would have given finality to suit or other proceeding. If the answer is “yes” then the revision is maintainable. But on the contrary, if the answer is “no” then the revision is not maintainable. Therefore, if the impugned order is interim in nature or does not finally decide the lis, the revision will not be maintainable. The legislative intent is crystal clear. Those orders, which are interim in nature, cannot be the subject-matter of revision under Section 115. There is marked distinction in the language of Section 97(3) of the Old Amendment Act and Section 32(2)(i) of the Amendment Act. While in the former, there was a clear legislative intent to save applications admitted or pending before the amendment came into force. Such an intent is significantly absent in Section 32(2)(i). The amendment relates to procedures. No person has a vested right in a course of procedure. He has only the right of proceeding in the manner prescribed. If by a

¹ (2003) 6 SCC 659



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statutory change the mode of procedure is altered, the parties are to proceed according to the altered mode, without exception, unless there is a different stipulation.”

[Emphasis Supplied]

3. Concededly, the Impugned Order is in the nature of an interim order and does not finally decide the *lis* between the parties.
4. Accordingly, the Petition is dismissed. Pending Application also stands closed.
5. However, the Petitioner is at liberty to take appropriate steps *albeit* in accordance with law for redressal of his grievances.
6. Interim order dated 01.07.2024 stands vacated.
7. The parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

MAY 5, 2025/r

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