



2025:DHC:5692



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

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Date of Decision: 15.07.2025

+ **C.R.P. 32/2023**

M/S MANDHAR MARKETING A PARTNERSHIP FIRM & ORS.

.....Petitioners

Through: Ms. Ankita Sharma, Adv.

versus

SH. RAKESH GUPTA & ANR.

.....Respondents

Through:

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

CM APPL. 38514/2025/Restoration]

CM APPL. 38515/2025/Condonation of delay in filing CM APPL. 38514/2025]

1. This Court had on 04.07.2025, after examining the matter, passed the following order:

“2. The present Petition was filed under Section 115 of the Code of Civil Procedure, 1908 [hereinafter referred to as “CPC”] seeking to challenge the order dated 08.12.2022 passed by the learned District Judge (Commercial Court) – 1, South West, Dwarka Courts, New Delhi [hereinafter referred to as “Impugned Order”].

3. Briefly the facts are that a suit for recovery being C.S. (Comm) No. 169/2019 captioned as **Shri Rakesh Gupta vs. M/s Mandhar Marketing & Ors** [hereinafter referred to as ‘suit’] filed under Section 6 of the Commercial Courts Act, 2015 [hereinafter referred to as the “CC Act”] was filed by the Respondent before the learned Trial Court. By the Impugned Order, an Application under Order VII Rule 11 of the CPC filed in the suit by the Petitioner was dismissed by the learned Trial Court.



4. The record reflects that the Petition was dismissed in default and for non-prosecution by an order dated 07.08.2024 passed by a Coordinate Bench of this Court.

5. The attention of the learned Counsel for the Petitioners is drawn to the provisions of Section 8 of the CC Act, which sets out that no civil revision petition shall be entertained against an interlocutory order passed by the Commercial Courts. It is apposite to set out the Section 8 of the CC Act below:

“8. Bar against revision application or petition against an interlocutory order.—Notwithstanding anything contained in any other law for the time being in force, no civil revision application or petition shall be entertained against any interlocutory order of a Commercial Court, including an order on the issue of jurisdiction, and any such challenge, subject to the provisions of section 13, shall be raised only in an appeal against the decree of the Commercial Court.”

6. The Division Bench of this Court in the case of **Black Diamond Trackparts (P) Ltd. & Ors v. Black Diamond Motors (P) Ltd.**; 2021 SCC OnLine Del 3946 considered the scope of Section 8 of the CC Act and it was held that CC Act expressly bars the remedy of a revision petition filed under section 115 of Code of Civil Procedure, 1908. The relevant extract of the **Black Diamond Track Parts (P) Ltd.** case is reproduced below:

“30. The reasoning in the aforesaid judgments gave rise to the question, that since the remedy of revision under Section 115CPC though available under the CPC against the order of dismissal of application under Order 7 Rule 10 CPC, has been taken away under the Commercial Courts Act, whether a petition under Article 227 would lie.

31. We are of the view that once the Commercial Courts Act has expressly barred the remedy of a revision application under Section 115CPC, with respect to the suits within its ambit, the purpose thereof cannot be permitted to be defeated by opening up the gates of Article 227 of the Constitution of India. The scope and ambit of a petition under Article 227 is much wider than the scope and ambit of a revision application under Section 115CPC; **whatever can be done in exercise of powers under Section 115CPC, can also be done in exercise of powers under Article 227 of the Constitution.** Allowing petitions under Article 227 to be preferred even against orders against which a revision application under Section 115CPC would have been maintainable but for the bar of Section 8 of the Commercial Courts Act, would nullify the legislative mandate of the Commercial Courts Act. Recently, in *Deep Industries Ltd. v. ONGC* [*Deep Industries Ltd. v. ONGC*(2020) 15 SCC 706], in the context of petitions under Article 227 of the Constitution of India with respect to orders in an appeal against an order of the Arbitral Tribunal under Section 17 of the Arbitration and Conciliation Act, 1996, it was held that if petitions under Article 226 of 227 of the Constitution against orders passed in appeals under the Arbitration Act were entertained, the entire arbitral process would be derailed and would not come to fruition for many years. It was observed that though Article 227 is a constitutional



provision which remains untouched by an non obstante Clause 5 of the Arbitration Act but what is important to note is that though petitions can be filed under Article 227 against judgments allowing or dismissing first appeals under the Arbitration Act, yet the High Court would be extremely circumspect in interfering with the same taking into account the statutory policy, so that interference is restricted to orders which are patently lacking in inherent jurisdiction. Thus, though we are of the view that gates of Article 227 ought not to be opened with respect to orders in commercial suits at the level of the District Judge against which a revision application under CPC was maintainable but which remedy has been taken away by the Commercial Courts Act, but abiding by the judgments aforesaid, hold that it cannot be said to be the law that jurisdiction under Article 227 is completely barred. **However the said jurisdiction is to be exercised very sparingly and more sparingly with respect to orders in such suits which under the CPC were revisable and which remedy has been taken away by a subsequent legislation i.e. the Commercial Courts Act, and ensuring that such exercise of jurisdiction by the High Court does not negate the legislative intent and purpose behind the Commercial Courts Act and does not come in the way of expeditious disposal of commercial suits.**”

[Emphasis Supplied]

7. Learned Counsel for the Petitioners requests for some time to take instructions.”
2. In view of the order the Court proposes to pass today, these Applications are allowed. The Petition is, accordingly, restored.
3. Learned Counsel for the Petitioners, on instructions, submits that she seeks to withdraw the present Petition.
4. The present Petition is accordingly dismissed as withdrawn. Pending Applications stand closed.
5. Liberty is however granted to the Petitioners to take appropriate steps in accordance with law for redressal of their grievances.
6. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

JULY 15, 2025/jn