



2025:DHC:3232



§~64

* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 30.04.2025*

+ C.R.P. 49/2025

M/S SAI WATCHES PVT. CO. LTD. & ORS.Petitioners

Through: Mr. Parth Yadav, Advocate.

versus

M/S TITAN COMPANY LTD. & ORS.Respondents

Through: None.

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 [hereinafter referred to as "CPC"] seeking to challenge an order dated 04.12.2024 passed by the learned District Judge, South-East, Saket, Delhi [hereinafter referred to as "Impugned Order"].
2. The order under challenge in the present Petition is an order which directs issue of summons and notice in the suit and directs filing of deficit Court fee.
3. Learned Counsel for the Petitioners submits that the Impugned Order directs the Petitioners (Plaintiffs before the learned Trial Court) to pay *ad valerum* Court fee instead of Court fee to be paid in accordance with Schedule 1 of the Court Fees Act, 1870.
4. At the outset, a query has been put to learned Counsel for the Petitioners as to how the present Petition is maintainable in view of the Proviso to Section 115, CPC and learned Counsel in this behalf seeks to rely



on the judgment of the *Delhi High Court Bar Association & Anr. v. Government of NCT of Delhi*¹.

5. The contentions of the learned Counsel for the Petitioners are without merit. It is no longer *res integra* that the provisions of Section 115 of the CPC cannot be invoked except where an order if made in favour of the revisionist would have finally disposed off the suit or proceedings. This is set out in the proviso to Section 115 of the CPC, which is reproduced 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]

6. The Supreme Court in *Shiv Shakti Coop. Housing Society, Nagpur v. Swaraj Developers & Ors.*² has held that unless the order if given in favour of the party applying for the revision would give finality to the suit or other proceeding, a revision is not maintainable. The relevant extract of the *Shiv*

¹ 2013 SCC OnLine Del 4091

² (2003) 6 SCC 659



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 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]

7. Since clearly, the Impugned Order is not an order which if granted in favour of the party, applying for revision would have given finality to the suit but is instead an order directing notice of issue and summons and payment of deficit Court fee, such an order could not be challenged in a Petition under Section 115, CPC, in view of the proviso of this Section.
8. The Petition is accordingly dismissed.
9. Liberty is however granted to the Petitioners to take appropriate steps in accordance with law for the redressal of his grievances.
10. The parties shall act based on a digitally signed copy of the order.

TARA VITASTA GANJU, J

APRIL 30, 2025/pa

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