

* **HIGH COURT OF DELHI AT NEW DELHI**

+ **C.R.P. No.106/2012 & C.M. No.15268/2012**

Decided on : 27th November, 2015

JASBIR SINGH Petitioner

Through: Mr. J.S. Vohra, Advocate.

Versus

SURJEET KAUR & ORS. Respondents

Through: Mr. Tarun Garg, Advocate.

CORAM:

HON'BLE MR. JUSTICE V.K. SHALI

V.K. SHALI, J. (ORAL)

1. This is a revision petition filed by the petitioner against the order dated 28.5.2012 passed by the learned Senior Civil Judge, Karkardooma Courts, Delhi.

2. I have heard the learned counsel for the petitioner and have also gone through the impugned order. By virtue of the present petition, the petitioner has challenged the order vide which the applications of the respondent under Order VI Rule 17 CPC and Order I Rule 10 CPC have been allowed. The present revision petition is not maintainable against the order by virtue of which the amendment has been allowed on account

of the fact that in the year 1999, there has been an amendment in Section 115 of the CPC under which the revision is filed. If one sees the proviso to Section 115 CPC, it would make it amply clear that the power of revision is to be exercised in a very limited sphere especially now after amendment, that is, in case the revisionist comes to file a revision petition against an order where if his relief was allowed by the trial court, it ought to have resulted in termination of proceedings. Meaning thereby, the party who is invoking the power of revision before the High Court must be able to show to the court that in case his prayer would have been granted then the entire suit would have terminated or would have come to an end and if it does not come to an end then in such a case, the revisionist court cannot simply vary, change or alter the order as is laid down in the first part of the proviso. The correct import of the power of revision will be appreciated only if the entire provision of revision is reproduced. Section 115 CPC reads as under:-

“115. Revision.- (1) The High Court may call for the record of any case which has been decide 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.

(2) The High Court shall not, under this section vary or reverse any decree or order against which an appeal lies either to the High Court or to any court subordinate thereto.

(3) A revision shall not operate as a stay of suit or other proceeding before the Court except where such suit or other proceeding is stayed by the High Court.

Explanation .- In this section, the expression “any case which has been decided” includes any order made, or any order deciding an issue, in the course of a Suit or other proceeding.”

3. A perusal of the aforesaid provision would clearly show that the present revision petition is totally misconceived. Even if it is assumed

that the amendment application would have been rejected, it would not have resulted in termination of proceedings. Therefore, the petition is not maintainable and the same is dismissed.

V.K. SHALI, J.

NOVEMBER 27, 2015
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