

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

+ **C.R.P. 71/2015 & CM APPL.8863-8864/2015**

Decided on: 12th October, 2015

MONA MAURYA & ORS. Petitioners
Through: Mr. Shiv Kumar Suri, Advocate with
Mr. Satender Kumar Rai, Advocate,
Ms. Smriti Dua, Advocate &
Ms. Ambika Bedi, Advocate
Versus

LALIT MAURYA & ORS. Respondents
Through: Nemo.

**CORAM:
HON'BLE MR. JUSTICE V.K. SHALI**

V.K. SHALI, J. (ORAL)

1. This is a revision petition filed by the petitioners against the order dated 16.03.2015 by virtue of which the application of the petitioners under Section 151 CPC filed on behalf of the petitioners (judgment debtors) for removal of locks from property No.5469-5470 & 5471, Reghgarpura, Karol Bagh, New Delhi-110051 was dismissed.
2. Briefly stated the facts are that one Mohar Singh filed a suit for dissolution of partnership and rendition of accounts against Ganga

Ram and Lalu Ram. In the said suit, a preliminary decree was passed on 19.09.1988 by the Sub-Judge, First Class, Delhi. An appeal was taken out by the JDs against the said judgment which was decided on 12.02.1990 upholding the preliminary decree and it was stated that out of 225 sq. yds. area of three plots, the decree holder, namely, Mohar Singh was entitled to 2/16th share. The said decree had attained finality as the appeal to the High Court was also not successful. Thereafter, no final decree was passed, however, an application was filed by the decree holder for appointment of a receiver and for taking up the possession of the suit property. This application was allowed on 23.04.1993. No appeal was taken against the said order, therefore, the said order of appointment of the receiver and taking the possession became final. It has been contended by the learned counsel for the petitioner that the receiver is still in possession of the suit properties.

3. Thereafter, an application was filed by the judgment debtors for removal of locks from suit property which has been rejected by the learned Civil Judge on the ground that since the basic order of

appointment of receiver for taking of the possession has not been challenged, therefore, the application for removal of locks is not maintainable and the same was dismissed as misconceived.

4. Feeling aggrieved, the present revision petition has been preferred by the present petitioners.
5. I have heard the learned counsel for the petitioners and have gone through the record.
6. In my considered opinion, the present revision petition is not maintainable because even if this application of removal of locks would have been allowed in favour of the revisionists, it would not have resulted in termination of the proceedings which is a pre-condition for entertaining the revision. This would be very clear from the language of Section 115 CPC which after amendment restricts the ambit of revision to a very limited extent only to cases where the relief if it would have been granted to the petitioner who has preferred the revision petition, it would result in termination of proceedings. These lines have been highlighted by me in the provision. I am reproducing here Section 115 CPC 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)

(3) ”

7. A perusal of the aforesaid Section 115 proviso especially the later part would show that revision is entertainable only if the applicant who has preferred the revision would have been granted the relief by the trial Court it would have resulted in termination of the entire proceedings.

8. Accordingly, the revision petition is not maintainable.
9. However, since the revision has been pending for the last number of dates, I feel that the revision even if treated as a petition under Article 227 of the Constitution of India does not deserves to be entertained and the same is accordingly dismissed.
10. Pending applications also stand disposed of.

V.K. SHALI, J.

OCTOBER 12, 2015

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