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

% *Date of Order: 05.12.2018*

+ **C.R.P. 144/2018 & C.M. No. 28821/2018 & 28823/2018**

M/S ASSOCIATED JOURNALS LTD Petitioner

Through: Mr.Varun K. Chopra, Advocate
with Mr.Gurtejpal Singh,
Advocate.

versus

SHABANA ALAM Respondent

Through: Mr.Mohit Gupta, Advocate
with Mr.Varun Phogat,
Advocate.

CORAM:

HON'BLE MR. JUSTICE VINOD GOEL

1. The order dated 04.04.2018 passed by the court of learned Additional District Judge-06, Central District, Tis Hazari Courts, Delhi ('ADJ') in Civil Suit No. 15702/2016 declining the petitioner's application to examine its newly appointed Company Secretary Mr.Nalin Kumar Asthana, as witness, instead of Ms.Roshni Tandon, is the subject matter of challenge in this petition.

2. During the course of arguments, learned counsel for the respondent has relied upon two judgments of Hon'ble Supreme Court in **Shiv Shakti Coop. Housing Society, Nagpur, Vs. Swaraj Developers and Ors., (2003) 6 SCC 659** and **Gayatri Devi & Ors. Vs. Shashi Pal Singh, (2005) 5 SCC 527**, to urge that if the impugned order is interim in nature and does not finally decide the *lis*, the

revision will not be maintainable. **Shiv Shakti Coop. Group Housing Society (*supra*)** says that “*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.....*”

3. At this stage, learned counsel for the petitioner submits that he does not press the petition but liberty may be granted to avail the remedy under Article 227 of the Constitution of India to assail the impugned order.

4. In the circumstances, the revision petition is dismissed as withdrawn with such liberty.

5. In view of above, the applications, being C.M. No. 28821/2018 & 28823/2018, are disposed of.

(VINOD GOEL)
JUDGE

DECEMBER 05, 2018
“shailendra”