



2025:DHC:6163



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 17.07.2025***+ **C.R.P. 267/2019, CM APPL. 50244/2019**

DAYA RAM

.....Petitioner

Through: None.

versus

M/S SCINDIA POTTERIES &amp; SERVICES PVT LTD

.....Respondent

Through: Mr. Anirban Bhattacharya, Mr.  
Apoorv Agarwal, Ms. Divya Verma,  
Mr. M. Shah and Mr. Rajeev  
Chakraborty, Advocates**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 the Order dated 21.09.2019 passed by the learned Additional District Judge-04, New Delhi District, Patiala House Courts, New Delhi [hereinafter referred to as "Impugned Order"]. By the Impugned Order, an Application under Order 15A CPC has been dismissed.

2. Learned Counsel appearing on behalf of the Respondent once again reiterates his contention that the Petition as filed is not maintainable in terms of proviso to Section 115 of the CPC

2.1 In addition, it is contended by the learned Counsel appearing for the Respondent that the Impugned Order that was passed gave a direction for deposit of mesne profit until the disposal of the Appeal and the said Appeal



has already been dismissed by the judgment dated 05.06.2025 in RCA DJ 5209/2016 passed by the learned District Judge-04, Patiala House Courts, New Delhi [hereinafter referred to as “learned Trial Court”]. He seeks to rely upon the judgment dated 05.06.2025 passed by the learned Trial Court in this behalf which has finally decided the Appeal filed by the Petitioner. Learned Counsel, thus, submits that the matter, in any event, has become infructuous.

3. It is settled law that the revisionary jurisdiction of this Court is limited to examine whether the learned Trial Court has failed to exercise jurisdiction vested in it or has exercised jurisdiction which is not vested or has acted with illegal or material irregularity.

3.1 The Supreme Court in the case of *Ambadas Khanduji Shinde & Ors. v. Ashok Sadashiv Mamurkar & Ors.*<sup>1</sup>; clarified that revisional jurisdiction of the High Court is restricted to cases of illegal or irregular exercise of jurisdiction by the subordinate courts. Under Section 115 of CPC, it is not open for the High Court to correct errors of facts or law unless they go to root of the issue of jurisdiction. It has been held as follows:

*“14. Apart from the factual aspect, order lacks merit on the ground of jurisdiction. The High Court cannot interfere with the concurrent factual findings while exercising jurisdiction under Section 115 of the Civil Procedure Code. **It is settled law that revisional jurisdiction of the High Court is restricted to cases of illegal or irregular exercise of jurisdiction by the subordinate courts. Under Section 115 of the Civil Procedure Code, it is not open for the High Court to correct errors of facts or law unless they go to root of the issue of jurisdiction. In the facts on hand, the courts below have passed reasoned orders well within the jurisdiction conferred upon them. We arrive at the conclusion that the High Court committed error in interfering with the judgment and decree of the trial court.**”*

[Emphasis Supplied]

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<sup>1</sup> (2017) 14 SCC 132



4. Concededly, the judgment dated 05.06.2025 passed by the learned Trial Court is an interim order passed in an Appeal. It does not finally decide the *lis* between the parties as is requisite for a challenge under Section 115 of the CPC. Section 115 of the CPC is set out 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]

5. A Coordinate Bench of this Court by an Order dated 28.11.2019 had directed that the Appellate Court shall not reject the Appeal on account of non payment of use and occupation charges. The relevant portion is set out below:

*“5. In the meantime, the Appellate Court shall not reject the appeal of the petitioner on account of non payment of the use and occupation charges as directed by order dated 21.09.2019.”*

6. An examination of the judgment dated 05.06.2025 passed by the learned Trial Court shows that the learned Trial Court has dismissed the Appeal filed by the Appellant on merits.



2025:DHC:6163



7. Learned Counsel appearing for the Respondent has handed over a copy of the Judgment dated 05.06.2025 in the Court today. The Registry is directed to scan and upload the same so that it remains embedded in the case file.
8. In view of what is stated above, the Petition is dismissed as being not maintainable. Pending Application stand closed.
9. The Respondent is at liberty to take appropriate steps for withdrawal of the use and occupation charges which have been deposited before the learned Trial Court.
10. The parties will act based on the digitally signed copy of the order.

**TARA VITASTA GANJU, J**

**JULY 17, 2025**  
***g.joshi***