



2025:DHC:4755



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 28.05.2025***

+ C.R.P. 290/2024

VINAY GUPTA

.....Petitioner

Through: Mr. Abhimanyu Tewari and Mr.
Manav Bhalla, Advocates.

versus

AJAY KUMAR GUPTA AND ORS

.....Respondents

Through: Mr. Siddharth Singh, Advocate for R-
1.
Ms. Shahana Farah and Mr.
Abhigyan, Advocates for R-4.**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"] read with Article 227 of the Constitution of India seeking to challenge an order dated 11.07.2024 passed by the learned District Judge, Commercial Courts, South East, Saket [hereinafter referred to as "Impugned Order"].
2. The record reflects that the Impugned Order has been passed by the learned Commercial Court deciding a challenge to the maintainability of the suit and has after finding the suit not to be maintainable as a commercial dispute, has adjourned the matter at the request of the Respondent/Plaintiff.
3. Since, the Impugned Order does not finally dispose of the suit, it



would be classified as an interim order. Section 8 of the Commercial Courts Act, 2015 [hereinafter referred to as ‘CC Act’] provides a bar against the Revision Petition against an interlocutory order. It is apposite to set out Section 8 of the CC Act below:

“8. Bar against revision application or petition against an interlocutory order.—Notwithstanding anything contained in any other law for the time being in force, no civil revision application or petition shall be entertained against any interlocutory order of a Commercial Court, including an order on the issue of jurisdiction, and any such challenge, subject to the provisions of section 13, shall be raised only in an appeal against the decree of the Commercial Court.”

3.1 The Division Bench of this Court in the case of ***Black Diamond Track Parts (P) Ltd. v. Black Diamond Motors (P) Ltd.***¹ considered the scope of Section 8 of the CC Act and it was held that CC Act expressly bars the remedy of a revision petition filed under Section 115 of Code of Civil Procedure, 1908. The relevant extract of the ***Black Diamond Track Parts (P) Ltd.*** case is reproduced below:

“30. The reasoning in the aforesaid judgments gave rise to the question, that since the remedy of revision under Section 115CPC though available under the CPC against the order of dismissal of application under Order 7 Rule 10CPC, has been taken away under the Commercial Courts Act, whether a petition under Article 227 would lie.

31. **We are of the view that once the Commercial Courts Act has expressly barred the remedy of a revision application under Section 115CPC, with respect to the suits within its ambit, the purpose thereof cannot be permitted to be defeated by opening up the gates of Article 227 of the Constitution of India.** The scope and ambit of a petition under Article 227 is much wider than the scope and ambit of a revision application under Section 115CPC; **whatever can be done in exercise of powers under Section 115CPC, can also be done in exercise of powers under Article 227 of the Constitution.** Allowing petitions under Article 227 to be preferred even against orders against which a revision application under Section 115CPC would have been maintainable but for the bar of Section 8 of the

¹ 2021 SCC OnLine Del 3946



Commercial Courts Act, would nullify the legislative mandate of the Commercial Courts Act. Recently, in *Deep Industries Ltd. v. ONGC* [Deep Industries Ltd. v. ONGC(2020) 15 SCC 706] , in the context of petitions under Article 227 of the Constitution of India with respect to orders in an appeal against an order of the Arbitral Tribunal under Section 17 of the Arbitration and Conciliation Act, 1996, it was held that if petitions under Article 226 of 227 of the Constitution against orders passed in appeals under the Arbitration Act were entertained, the entire arbitral process would be derailed and would not come to fruition for many years. It was observed that though Article 227 is a constitutional provision which remains untouched by an non obstante Clause 5 of the Arbitration Act but what is important to note is that though petitions can be filed under Article 227 against judgments allowing or dismissing first appeals under the Arbitration Act, yet the High Court would be extremely circumspect in interfering with the same taking into account the statutory policy, so that interference is restricted to orders which are patently lacking in inherent jurisdiction. Thus, though we are of the view that gates of Article 227 ought not to be opened with respect to orders in commercial suits at the level of the District Judge against which a revision application under CPC was maintainable but which remedy has been taken away by the Commercial Courts Act, but abiding by the judgments aforesaid, hold that it cannot be said to be the law that jurisdiction under Article 227 is completely barred. **However the said jurisdiction is to be exercised very sparingly and more sparingly with respect to orders in such suits which under the CPC were revisable and which remedy has been taken away by a subsequent legislation i.e. the Commercial Courts Act, and ensuring that such exercise of jurisdiction by the High Court does not negate the legislative intent and purpose behind the Commercial Courts Act and does not come in the way of expeditious disposal of commercial suits.**”

[Emphasis Supplied]

4. In the event that the Impugned Order is to be treated as a final order, since the order does adjudicate the aspect of maintainability of the suit, the challenge to such an order would only lie before a Division Bench of this Court. Thus, this Petition would not be maintainable before this Court.
5. Undisputably thus, the remedies of the Petitioner lie before another Court.
6. However, the Petitioner is at liberty to take appropriate steps in



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accordance with law for redressal of his grievances.

7. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

MAY 28, 2025/pa/r

Click here to check corrigendum, if any