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

% ***Date of Decision: 10.10.2025***

\+ **C.R.P. 50/2024 & CM Appl. 7026/2024**

RAKESH SHARMA .....Petitioner

Through: Mr. Satya Veer Singh, Ms. Smriti Singh, Mr. Vishal Singh and Mr. Siddharth Yadav, Advs.

versus

VIKRAM SARASWAT .....Respondent

Through:

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"] impugning the order dated 07.11.2023 passed by the learned Trial Court [hereinafter referred to as "Impugned Order"]. By the Impugned Order, the learned Trial Court has dismissed the objection raised by the Petitioner/judgment debtor regarding non-payment of the amounts due.

2. At the outset, learned Counsel for the Respondent submits the order which is subject matter of challenge in this proceedings, was also subject matter of challenge in another Petition being CRP 55/2024 captioned ***Rakesh Sharma v. Arvind Saraswat*** and by an order dated 29.07.2025, this Court had dismissed the Petition with liberty to file appropriate proceedings in accordance with law for redressal of his grievances.

3. Learned Counsel for the Petitioner does not deny the same. However,

he deems to re-argue the matter.

4. This Court had on 29.07.2025 in CRP 55/2024 after examining the matter passed the following directions:

> "2. By the Impugned Order, the learned Trial Court has, after examining the contention of the Petitioner/Judgment Debtor, which were made in respect of the settlement agreement dated 14.09.2022 entered into between the parties [hereinafter referred to as the "Settlement Agreement"], directed that the Petitioner/Judgment Debtor is required to make payment of Rs. 5 lacs to the Respondent/Decree Holder. The matter was thereafter listed by the learned Trial Court for further proceedings.
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> 3. The predecessor Bench of this Court had by its order dated 09.02.2024 directed that the warrants of attachment issued against the Petitioner/Judgment Debtor be kept in abeyance and not executed.
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> 4. Learned Counsel appearing for the Legal Representatives of the Respondents enters appearance and submits that in view of the interim order granted by this Court, the warrants of attachment have been stayed by the learned Trial Court, and subsequently, the execution proceedings are being continuously adjourned.
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> 5. In addition, a challenge to the maintainability of the present Petition has been raised by the learned Counsel for the Respondents. Learned Counsel for the Respondents submits that the Impugned Order has been passed in execution proceedings and in pursuance of a settlement entered into between the parties, whereby a statement was recorded by the Executing Court on 14.09.2022. It is submitted that the Petitioner/Judgment Debtor, after settling the matter before the Executing Court and recording his statement to the effect, has defaulted in the settlement and that the Impugned Order merely directs the payment to be made in compliance thereof.
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> 6. Learned Counsel for the Respondents further submits that the order sought to be challenged is not amenable to jurisdiction of this Court under Section 115 of the CPC.
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> 7. It is no longer *res integra* that the provisions of Section 115 of the CPC cannot be invoked unless the Order so passed, if allowed, would have otherwise given finality to the *lis* between the parties. This is set out in the proviso of Section 115 of the CPC, which reads as follows:
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> *"Section 115 – Revision*
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> *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]

7.1 The Supreme Court in ***Shiv Shakti Coop. Housing Society, Nagpur v. Swaraj Developers & Ors.*** has held that unless the order if given in favour of the party applying for the revision would have given finality to the suit or other proceeding, a revision is not maintainable. The relevant extract of the ***Shiv Shakti*** case is set out below:

"32. ***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. There is marked distinction in the language of Section 97(3) of the Old Amendment Act and Section 32(2)(i) of the Amendment Act. While in the former, there was a clear legislative intent to save applications admitted or pending before the amendment came into force. Such an intent is significantly absent in Section 32(2)(i). The amendment relates to procedures. No person has a vested right in a course of procedure. He has only the right of proceeding in the manner prescribed. If by a statutory change the mode of procedure is altered, the parties are to proceed according to the altered mode, without exception, unless there is a different stipulation."*

[Emphasis Supplied]

7.2 In the case of ***Gayatri Devi v. Shashi Pal Singh*****,** the Supreme Court while relying on the ***Shiv Shakti Coop. Housing Society case*** has held that

an order interim in nature or which does not finally decide the lis, cannot be challenged by way of a revision under Section 115 CPC.

> *"14. In the first place, it appears to us that the revision petition before the High Court was wholly incompetent in view of the amended provision of Section 115 CPC. The revision petition was entertained at the stage of interlocutory proceedings.* ***As laid down by this Court in Shiv Shakti Coop. Housing Society v. Swaraj Developers [(2003) 6 SCC 659] an order interim in nature or which does not finally decide the lis, cannot be challenged by way of a revision under Section 115 CPC.****"*
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> [Emphasis Supplied]

8. Concededly, the order that has been challenged by the Petitioner/Judgment Debtor is an order that has been passed in Execution Proceedings wherein the objection raised by the Petitioner/Judgment debtor to not pay the remaining amount of Rs. 5 lakhs, has been rejected by the learned Trial Court.

9. In view of the aforegoing, the Petition is dismissed. The liberty is, however, granted to the Petitioner to file appropriate proceedings in accordance with law for redressal of his grievances."

5. Since the Impugned Order has already been adjudicated by the Court, no order can be passed in this Petition.

6. The Petition is accordingly dismissed. The pending Application also stands closed.

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

TARA VITASTA GANJU, J

OCTOBER 10, 2025/r