**Affidavit in a Civil Revision Petition under section 115 of CPC and for stay against order.**

**Format of Affidavit to be filed with application for stay in a Civil Revision Petition under Section 115 of CPC.**

Affidavit also needs to be filed with Miscellaneous Application seeking stay in a Civil Revision Petition Section 115 of the Civil Procedure Code. Details of Section 115 of the Civil Procedure Code is given below.

Sample Format of Affidavit to be filed with a Revision Petition seeking stay is given below:

**BEFORE THE HON'BLE \_\_\_\_\_\_\_\_\_\_\_ COURT AT \_\_\_\_\_\_\_
CIVIL MISCELLANEOUS PETITION NO.\_\_\_\_ OF 20\_\_**

**IN CIVIL REVISION PETITION NO\_\_\_\_ OF \_\_\_\_**

Mr. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_                                **PETITIONER**

**VERSUS**

MR. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_                                **RESPONDENT**

**AFFIDAVIT**

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Wife of \_\_\_\_\_\_\_\_\_\_\_\_\_, Daughter of \_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ , aged\_\_\_\_\_\_ years, resident of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ , do hereby solemnly affirm and state as follows:

1. That I am the petitioner in the Civil Miscellaneous Petition and the Civil Revision Petition referred to above. The deponent herein is well acquainted with the facts and circumstances of the case and being so, stands fully competent to swear to this affidavit. The deponent herein will be referred to as the petitioner hereinafter.

2. It is respectfully submitted that the maintainability of the appeal referred to above was questioned by the petitioner vide I.A. No \_\_\_\_\_ before the district Court on a preliminary ground. The said Court dismissed the said application by its order dated \_\_\_\_ aggrieved by which the abovementioned Revision Petition has been filed by the petitioner.

3. For the sake of brevity, the contents of the Memorandum of Civil Revision Petition may be read as part of this affidavit.

4. It is further submitted that the petitioner bona fide believes that the Revision Petition is most likely to be allowed by this Hon'ble Court and the order of the Court below set aside and a declaration made that the appeal is not maintainable.

5. In view of the aforementioned circumstances, it is clear that if without hearing the maintainability of the appeal, the same is allowed to be proceeded with and heard on merits, the petitioner will suffer irreparable loss and injury.

6. It is, therefore, in the interest of justice, equity and conscience that this Hon'ble Court may stay all further proceedings in the aforesaid appeal until the accompanying Civil Revision Petition is finally disposed of.

**DEPONENT**

**VERIFICATION**
Verified at on this the \_\_\_\_\_ day of ,20\_\_ that the contents of the above affidavit are true and correct to the best of my knowledge, belief and information and nothing material has been concealed therefrom.

**DEPONENT**

**Section 115 of the Civil Procedure Code 1908**

**Section 115**

**"Revision"**

(1) The High Court may call for the record of an 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 no, 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-

(a) 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, or

(b) the order, if allowed to stand, would occasion a failure of justice or cause irreparable injury to the party against whom it was made.

(2) The High Court shall not, under this section, vary or reverse any decree or order against which an appeal lies either to the High Court or to any Court subordinate thereto.

Explanation.-In this section, the expression "any case which has been decided" includes any order made, or any order deciding an issue in the course of a suit or other proceeding.