



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(116)

CR-6468-2025

Date of Decision:-24.09.2025

JAGWANT SINGH

... Petitioners

Versus

PUNJAB STATE POWER CORPORATION LIMITED AND ANOTHER

... Respondents

-.-

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Saurav Bhatia, Advocate, and
Mr. N.S. Khokhar, Advocate,
for the petitioner.

Mr. Mehtab Singh Bhatti, Advocate,
for the respondents.

VIRINDER AGGARWAL, J. (Oral)

1. The present revision petition has been filed under Article 227 of the Constitution of India assailing the order dated 01.09.2025 (Annexure P-12) passed by learned Civil Judge (Senior Division), Bathinda, vide which, the application under Section 151 of Code of Civil Procedure (CPC) has been allowed. The order has been assailed on the grounds that the Court has not exercised the jurisdiction properly and that recalling a witness for further examination is not a matter of right but discretion vested in the Court to be exercised judiciously.

2. I have heard the arguments and gone through the file carefully.

3. Learned Counsel for the petitioner assails the order contending that it is settled law that recalling a witness for further cross-examination is not a matter of right but discretion vested in the Court to be exercised judiciously, to meet



the ends of justice. Whereas, in the present case, the same has been exercised arbitrarily, so the impugned order is required to be set aside and petition may be allowed. On the contrary, learned counsel for the respondent argued that the Court below has exercised the jurisdiction vested in it properly and in the interest of justice for ensuring proper justice to the parties and therefore prayed for the dismissal of the petition.

4. I have gone through the record carefully.

5. The learned Additional Civil Judge (Senior Division), Bathinda vide impugned order has allowed the recall of the plaintiff for further cross-examination. Relevant portion of the impugned order reads as under:-

“5. I have considered the rival submissions. The power to recall a witness for further cross-examination is not a matter of right but a discretion vested in the Court to be exercised judiciously to meet the ends of justice. The paramount consideration is whether a sufficient and cogent reason has been shown for not putting the proposed question(s) during the original cross-examination. In the present case, the defendant asserts that the MCO and the plaintiff’s signature thereon is a subsequent discovery. The authenticity of a consumer’s consent on an MCO can be a decisive factor in a dispute concerning the meter and subsequent billing. The question the defendant seeks to put pertains to a document that is allegedly central to the defendant’s version of events. To deny an opportunity to confront the witness with a document that is claimed to be vital would be to shut out a potentially crucial line of defense, which would be contrary to the principles of a fair trial. The interest of justice demands that all relevant evidence be brought on record for a just decision.

6. The objections regarding maintainability, delay and estoppel, while noted, are overruled in the peculiar facts and circumstances of this case. The quest for truth and a complete adjudication of the real matter in controversy must prevail over technicalities. The plaintiff can be adequately compensated by imposing costs for the time spent and the delay caused”



6. Learned counsel for the petitioner has placed reliance upon the judgments of the Apex Court in *K.K. Velusamy vs. N. Palanisamy, 2011 (11) SCC 275*, *Ram Rati vs. Mange Ram (Dead) through LR, 2016 (11) SCC 296*, *Bagai Construction vs. Gupta Building Material Store, 2013 (14) SCC 1*, by this Court in *Nisha Sharma vs. Pritam Singh and others, 2018 SCC Online P&H 4949*, *M/s Shoe Palace and Another vs. Sham Lal and Others, 2016 SCC Online P&H 1505*, *Gurmeet Singh and Another vs. Charanjit Kaur and Another, 2016 SCC Online P&H 1260* and *Krishan Baldev vs. Dev Singh, 2012 SCC Online P&H 2358*. Whereas, the learned counsel for the respondent has placed reliance upon judgment of Hon'ble Apex Court in *K.K. Velusamy vs. N. Palanisamy (supra)* and of Hon'ble Delhi High Court in *Pushpa Devi and Another vs. Pawan Sehrawat and Others., 2024 SCC Online Del 1666*. Most of the authorities relied upon by the petitioner pertains to provisions of Order XVIII Rule 17 of CPC with regard to power of the Court to recall the witness. The same reads as under:-

"The Court may at any stage of a suit recall any witness who has been examined and may (subject to the law of evidence for the time being in force) put such questions to him as the Court thinks fit."

7. Rule 17 of Order XVIII of CPC deals with the power of the Court, wherein Court requires any explanation from any witness in order to effectively adjudicate the matter and the Hon'ble Apex Court has categorically laid down in *K.K. Velusamy versus N.Palanisamy (supra)* that inherent power of the Court under Section 151 of CPC is not affected by the express power conferred on the Court under Order XVIII Rule 17 of CPC. The relevant portion of the judgment reads as under:-



“This inherent power of the Court is not affected by the express power conferred upon the Court under Order 18 Rule 17 of the Code to recall any witness to enable the Court to put such question to elicit any clarifications. The power to recall any witness under Order 18 Rule 17 can be exercised by the Court either on its own motion or on an application filed by any of the parties to the suit requesting the Court to exercise the said power. The power is discretionary and should be used sparingly in appropriate cases to enable the Court to clarify any issue or doubt it may have in regard to the evidence led by the parties by recalling any witness so that the court itself can put question and elicit answers. Once a witness is recalled for purposes of such clarification, it may, of course, permit the parties to assist it by putting some questions. However, this power is not intended to be used to fill up omissions in the evidence of a witness who has already been examined. Order 18 Rule 17 is not a provision intended to enable the parties to recall any witnesses for their further examination-in-chief or cross-examination or to place additional material or evidence which could not be produced when the evidence was being recorded.”

8. Consequently, in view of the findings of the Apex Court, most of the authorities pertaining to the provisions of Order XVIII Rule 17 of CPC relied upon by the petitioner are distinguishable. Hon’ble Apex Court has summarized the scope of power of the Court under Section 151 of CPC in ***K.K. Velusamy*** (supra) as under:-

“The scope of Section 151 has been explained by this Court in several decisions which can be summarised as follows:

(a) Section 151 is not a substantive provision which creates or confers any power or jurisdiction on courts. It merely recognizes the discretionary power inherent in every court as a necessary corollary for rendering justice in accordance with law, to do what is ‘right’ and undo what is ‘wrong’, that is, to do all things necessary to secure the ends of justice and prevent abuse of its process.

(b) As the provisions of the Code are not exhaustive, section 151 recognizes and confirms that if the Code does not expressly or impliedly cover any particular procedural aspect, the inherent power can be used to deal with such situation or aspect, if the ends of justice warrant it. The breadth of such power is co-extensive



with the need to exercise such power on the facts and circumstances.

(c) A Court has no power to do that which is prohibited by law or the Code, by purported exercise of its inherent powers. If the Code contains provisions dealing with a particular topic or aspect, and such provisions either expressly or necessary implication exhaust the scope of the power of the court or the jurisdiction that may be exercised in relation to that matter, the inherent power cannot be invoked in order to cut across the powers conferred by the Code or a manner inconsistent with such provisions. In other words the court cannot make use of the special provisions of [Section 151](#) of the Code, where the remedy or procedure is provided in the Code.

(d) The inherent powers of the court being complementary to the powers specifically conferred, a court is free to exercise them for the purposes mentioned in [Section 151](#) of the Code when the matter is not covered by any specific provision in the Code and the exercise of those powers would not in any way be in conflict with what has been expressly provided in the Code or be against the intention of the Legislature.

(e) While exercising the inherent power, the court will be doubly cautious, as there is no legislative guidance to deal with the procedural situation and the exercise of power depends upon the discretion and wisdom of the court, and the facts and circumstances of the case. The absence of an express provision in the code and the recognition and saving of the inherent power of a court, should not however be treated as a carte blanche to grant any relief.

(f) The power under [section 151](#) will have to be used with circumspection and care, only where it is absolutely necessary, when there is no provision in the Code governing the matter, when the bona fides of the applicant cannot be doubted, when such exercise is to meet the ends of justice and to prevent abuse of process of court.

9. Now, in order to ascertain as to if the power has been exercised by the Court correctly or not, the controversy in hand is to be seen. Petitioner/plaintiff being consumer of respondents/defendants has filed a suit for declaration assailing the notice No.3275 of 18.12.2020 issued by the



respondents/defendants, whereby, demand of Rs.55,344/- has been raised along with compounding fee of Rs.14,490/- on account of alleged theft of energy. Plaintiff filed a suit for declaration of the notice as illegal, null and void, and with consequential relief of injunction restraining defendants from recovering the amount on the basis of notice. Respondents/defendants contested the suit by raising various pleas and it was pleaded that defective meter of the plaintiff was removed in the presence of plaintiff and the same was sent to ME Lab after completing all the formalities for internal checking up, and on checking it was found that display of meter has been stopped. It was further found that connection holder had controlled the supply of electricity by using outsourcing capacitor, So the demand was calculated and proceedings under Section 135 of Electricity Act were recommended. Plaintiff appeared as witness and when the case was fixed for defendants evidence, application was filed for recalling the plaintiff for further cross-examination as some material questions regarding the signatures upon MCO as consent for the meter change are to be put to the plaintiff. The application was moved by recording the facts that defect came to the knowledge of the defendants that plaintiff has put signatures as consent of meter change upon MCO and further cross-examination would help in ascertaining the true facts. The application was contested by the petitioner, wherein, it was alleged that application having been filed at a belated stage is not maintainable and that the same has been filed with a *mala fide* intention to fill lacunas and that plaintiff has already been cross-examined at length and the material, which was required to be put to the plaintiff, was already in the knowledge of the applicants/defendants. Court after hearing arguments has allowed the application vide impugned order.



10. Now, the basic question required to be decided in this case is with regard to as to if the demand notice issued by the respondents/defendants is based upon facts and in order to prove the same, the removal of meter of the petitioner/plaintiff in his presence and with the consent of petitioner/plaintiff is required to be proved and for that purpose respondents/defendants want to put signatures of plaintiff on MCO order to the plaintiff. No doubt, MCO is a document of the respondents/defendants and it cannot be presumed that they were not in the knowledge of MCO at the stage when plaintiff was being examined, so respondents/defendants were negligent in not putting the same to plaintiff during his cross-examination but considering the fact that material, which is required to be put to the plaintiff would be helpful in arriving at just conclusion. Thus, the exercise of inherent power by the Court under Section 151 of CPC cannot be held to be arbitrarily exercised. The discretion has been exercised by the Court below judiciously on the basis of cogent and convincing reasons, as such, the order does not suffer from any illegality or infirmity, finding no merit in the revision petition and the same is dismissed.

11. Since the main case stands dismissed, pending application(s), if any are also disposed of accordingly.

24.09.2025
S. Pathania

(VIRINDER AGGARWAL)
JUDGE

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| Whether reasoned / speaking? | Yes / No |
| Whether reportable? | Yes / No |