



CR-1513-2025 (O&amp;M)

DATE OF DECISION : 12.03.2025

GURVINDER KAUR ALIAS PRIYA MAINI AND ANOTHER  
... PETITIONERS

V/S

CAPTAIN MAHARAJ SINGH UPPAL RETIRED AND OTHERS  
... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Laxman Choudhary, Advocate for the petitioners.

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**VIKRAM AGGARWAL, J. (ORAL)**

The present revision petition is directed against the order dated 19.02.2025 passed by the Court of learned Addl. Civil Judge, Senior Division, Bilaspur vide which the application for recalling PW1 Captain Maharaj Singh Uppal for further cross-examination was dismissed.

2. The facts, as emanating from the revision petition, are that respondents No.1 and 2/plaintiffs (hereinafter referred to as the respondents-plaintiffs) filed a suit for possession of a house situated in Sadhaura, Tehsil Bilaspur District Yamuna Nagar (Annexure P-1). The suit was opposed by way of written statement (Annexure P-2). An application (Annexure P-3) was filed by the petitioners (defendants No.1(iii) and 1(iv)) for recalling respondent No.1-plaintiff Captain Maharaj Singh Uppal, who had appeared as PW-1 for further cross-examination on the ground that after the

petitioners changed their counsel, he, on examination of the file, found that certain important questions had not been put to the said witnesses. The application was opposed by way of reply (Annexure P-4). The application has been dismissed by way of the impugned order leading to the filing of the present revision petition.

3. I have heard learned counsel for the petitioners.

4. Learned counsel submits that there are four questions which are required to be put to PW1 Captain Maharaj Singh Uppal. He has referred to the application wherein the questions proposed to be asked have been mentioned. Learned counsel submits that the said questions are extremely essential for the just decision of the case and without these questions being put to the witness, the rights of the petitioners shall be gravely prejudiced. Learned counsel submits that on account of the negligence of the counsel, the petitioners should not suffer.

5. I have considered the submissions made by learned counsel for the petitioners but find the same to be devoid of merit.

6. The suit for possession was filed in the year 2017. The written statement bears the date 10<sup>th</sup> of August, 2018. The requisite details as regards framing of issues, the date when the evidence of the plaintiffs started and ended and the date when the evidence of the defendants started are neither available in the case file nor learned counsel has been able to state, despite a specific query by the Court. He, however, submits that the matter is now pending for the evidence of the defendant. PW1 Captain Maharaj Singh Uppal stepped into the witness-box on 01.12.2021, as is evident from his statement (Annexure P-5). The cross-examination of the said witness is

not on record.

7. Be that as it may, more than 3 years after he was examined, merely because the petitioners had changed their counsel, would not be a sufficient ground to give another opportunity to them to recall the witness because, this would amount to giving an opportunity to the petitioners to fill up the lacunae in their case, if any. They were granted four opportunities to cross-examine the witness. In the considered opinion of this Court, the trial Court did not commit any illegality by rejecting the application. In fact, the trial Court has also noticed that PW1 Captain Maharaj Singh Uppal was cross-examined at length on 01.12.2021. It was rightly found that recalling of a witness for further elaboration of left out points is not permissible that too, after change of a counsel. I do not, therefore, find any reason to interfere in the impugned order.

8. In view of the above, I do not find any merit in the present petition and the same is accordingly dismissed.

12.03.2025

Janki

(VIKRAM AGGARWAL)  
JUDGE

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No