



CR-1253-2019 (O&M)

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR-1253-2019 (O&M)

Date of Reserve: August 20, 2025

Date of Pronouncement:-09.09.2025

Anshu Jain and others

.....Petitioners

Vs.

Ravinder Dua and ors.

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. R.D. Sharma, Advocate with Mr. Amit Jangra, Advocate,
for the petitioners.

Mr. Rishi Jithwan, Advocate, for the respondents.

SUDEEPTI SHARMA J. (Oral)

1. Present revision petition is preferred against order dated 01.02.2019 passed by learned Rent Controller, Kaithal in Rent Petition RBT No. 12 of 2015, whereby application dated 14.12.2018 filed by the petitioners under Order 18 Rule 17 read with Section 151 CPC to recall witness Ravinder Dua, already examined as PW1 for further examination, is dismissed.

2. Learned counsel for the petitioners contends that to get the truth revealed, Ravinder Dua who was examined as PW1, is further required for cross examination to get certain clarifications. The petitioner filed application under Order 18 Rule 17 CPC and the same was erroneously dismissed by learned Rent Controller, Kaithal, He, therefore, prays that the present petition be allowed.

3. In support of his contention, he has relied upon judgment of Hon'ble the Supreme Court of India in a case of *K.K. Velusamy vs. N. Palanisamy, 2011 (2) RCR (Civil) 875*.

4. Per contra, learned counsel for the respondents contends that the application filed by the petitioner under Order 18 Rule 17 CPC has rightly been



CR-1253-2019 (O&M)

dismissed by learned Rent Controller, Kaithal. He, therefore, prays that the present revision petition be dismissed.

5. In support of his contention, he has relied upon judgment of Hon'ble the Supreme Court of India in a case of ***Shubhkaran Singh vs. Abhayraj Singh and ors, 2025 Live Law (SC) 536.***

6. I have heard learned counsel for the parties and perused the whole file of this case with their able assistance.

7. The power to recall any witness under Order 18 Rule 17 CPC is discretionary and cannot be used to fill the lacuna in the evidence of witnesses, who have already been examined, but only to clear any ambiguity that may have arisen during his examination. In the present case, the petitioners are asking for recalling of the witness Ravinder Dua, PW1 for further cross examination on the ground that the petitioner wants to seek further clarification by cross examining him. Learned counsel for the petitioners in the application for recalling witness Ravinder Dua, PW1 for further cross examination stated that Govind Lal, who was examined as PW2, avoided to answer many questions on the pretext that the same are within the knowledge of his son Ravinder Dua, PW1, who was already examined, therefore, it has rightly been observed by the learned Rent Controller, Kaithal that power under Order 18 Rule 17 CPC is primarily a provision enabling the Court only to clarify any issue or doubt by recalling any witness so that the Court can itself put a question and elicit the answer. And recalling a witness at the instance of the parties, for further elaboration on the left out points, which would be asked from the witness PW1 Ravinder Dua, who had already been examined is not permissible in law.

8. Now coming to the judgment referred to by learned counsel for the parties.



CR-1253-2019 (O&M)

9. Learned counsel for the petitioners has relied upon ***K.K. Velusamy's case (supra)***, wherein Hon'ble the Supreme Court has held that the Court can allow the parties to produce fresh evidence if evidence was relevant to render justice. The operative part of the judgment reads as under:-

“9. There is no specific provision in the Code enabling the parties to re- open the evidence for the purpose of further examination-in-chief or cross- examination. Section 151 of the Code provides that nothing in the Code shall be deemed to limit or otherwise affect the inherent powers of the Code to make such orders as may be necessary for the ends of justice or to prevent the abuse of the process of the court. In the absence of any provision providing for re-opening of evidence or recall of any witness for further examination or cross-examination, for purposes other than securing clarification required by the court, the inherent power under section 151 of the Code, subject to its limitations, can be invoked in appropriate cases to re- open the evidence and/or recall witnesses for further examination. 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.

10.	xxx	xxx	xxx
11.	xxx	xxx	xxx
12.	xxx	xxx	xxx
13.	xxx	xxx	xxx
14.	xxx	xxx	xxx
15.	xxx	xxx	xxx

**CR-1253-2019 (O&M)**

16. We may add a word of caution. The power under section 151 or Order 18 Rule 17 of the Code is not intended to be used routinely, merely for the asking. If so used, it will defeat the very purpose of various amendments to the Code to expedite trials. But where the application is found to be bona fide and where the additional evidence, oral or documentary, will assist the court to clarify the evidence on the issues and will assist in rendering justice, and the court is satisfied that non-production earlier was for valid and sufficient reasons, the court may exercise its discretion to recall the witnesses or permit the fresh evidence. But if it does so, it should ensure that the process does not become a protracting tactic. The court should firstly award appropriate costs to the other party to compensate for the delay. Secondly the court should take up and complete the case within a fixed time schedule so that the delay is avoided. Thirdly if the application is found to be mischievous, or frivolous, or to cover up negligence or lacunae, it should be rejected with heavy costs. If the application is allowed and the evidence is permitted and ultimately the court finds that evidence was not genuine or relevant and did not warrant the reopening of the case recalling the witnesses, it can be made a ground for awarding exemplary costs apart from ordering prosecution if it involves fabrication of evidence. If the party had an opportunity to produce such evidence earlier but did not do so or if the evidence already led is clear and unambiguous, or if it comes to the conclusion that the object of the application is merely to protract the proceedings, the court should reject the application. If the evidence sought to be produced is an electronic



CR-1253-2019 (O&M)

record, the court may also listen to the recording before granting or rejecting the application.”

10. Learned counsel for the respondents has relied upon ***Shubhkaran Singh’s case (supra)***, wherein Hon’ble the Supreme Court has held that the power under Section 151 or Order 18 Rule 17 of the CPC is not intended to be used routinely merely on the asking. The operative part of the judgment reads as under:-

“6. Order 18 Rule 17 reads as under:-

“17. 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. This Rule provides the Court with a power which is necessary for the proper conduct of a case. If it appears to a court trying the suit at any stage of the proceedings that it is necessary to recall and further examine a witness it can always do so. This power can be exercised even at the stage of writing a judgment by the court. It is, however, proper that this power should not be exercised lightly and the rule is that it should be used sparingly and in exceptional cases only. The power is to be used for removing ambiguities, for clarifying the statement and not for the purposes of filling up the lacuna in a party's case. It is true that the power can be exercised by the Court at its own initiative and may even be so done at the instance of a party. [Section 165](#) of the Evidence Act provides that a Judge may in order to discover or obtain proper proof of relevant facts, ask any question he



CR-1253-2019 (O&M)

pleases in any form at any time of any witness about any fact relevant. The section further provides that the parties shall not be entitled to make any objection to any such question, nor cross-examine any witness upon any answer given in reply to any such question without the leave of the Court. If the provisions of Order 18 Rule 17 are read along with the provisions of [Section 165](#) of the Evidence Act it is clear that the power to recall and re-examine a witness is exclusively that of the court trying the suit. The parties to the suit cannot take any objection to the question asked nor can they be permitted to cross-examine any witness without the leave of the court.

8. The said rule, in our opinion, makes it abundantly clear that the right to put questions to the witness recalled under Rule 17 is given only to the court and even cross-examination is not ordinarily permitted on the answers given to such questions, without the leave of the court. Under that rule therefore, a witness cannot be recalled at the instance of a party for the purpose of examining, cross examining or re-examining, and that rule is not intended to serve such purpose, and the purpose for which that rule can be invoked is the one that is indicated above.

11. So far as judgment relied upon by learned counsel for the petitioners is concerned, Hon'ble the Supreme Court has held that there is no provision providing for reopening of evidence or recalling of any witness for further examination or cross examination. However, inherent power under Section 151 CPC can be invoked in appropriate cases to reopen the evidence and to recall

**CR-1253-2019 (O&M)**

witnesses for further examination. It is further held that Section 151 CPC cannot be routinely invoked for reopening evidence or recalling the witness. It is further held that the said power is not intended to be used to fill up omissions in the evidence of witness who has already been examined. Therefore, the judgment relied upon by learned counsel for the petitioners is of no help to them and does not support their case.

12. So far as judgment relied upon by learned counsel for the respondents is concerned, Hon'ble the Supreme Court has held that Order 18 Rule 17 CPC reads that the Court may at any stage of the suit, recall any witness who has been examined and may put such question to him as the Court may think fit and the said Rule makes it abundantly clear that the right to put questions to the witness recalled under Rule 17 is given only to the Court and even cross examination is not ordinarily permitted on the answers given to such questions without the leave of the Court. Further under Rule 17, a witness cannot be recalled at the instance of a party for the purpose of examining, cross examining or re-examining. The judgment relied upon by learned counsel for the petitioners has also been referred to in the judgment relied upon by learned counsel for the respondents.

13. In view of the above discussion, application dated 14.12.2018 filed by the petitioners under Order 18 Rule 17 read with Section 151 CPC to recall witness Ravinder Dua has rightly been dismissed. Accordingly, this Court finds no infirmity or illegality in the impugned order dated 01.02.2019.

14. Accordingly, the revision petition is dismissed.

15. Pending application (s), if any also stands disposed of.

09.09.2025

Gaurav Arora

(SUDEEPTI SHARMA)**JUDGE**

Whether speaking/non-speaking : Yes/No

Whether reportable : Yes/No