

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****115****CR-1292-2025 (O&M)
Date of decision: 17.07.2025****Suresh Sharma @ Suresh Kumar and another****...Petitioners****Vs.****Amit Grewal and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:- Ms. Pratula Sethi, Advocate
for the petitioners [on VC].***********NIDHI GUPTA, J.**

Present Civil Revision Petition under Article 227 of the Constitution of India has been filed by the petitioners/tenants for setting aside the impugned order dated 31.01.2025 (Annexure P-3) passed by the Id. Rent Controller, Ludhiana, in Rent Petition No. RP/509/2021 instituted on 14.12.2021 vide which the application (Annexure P-2) filed by the petitioner for recalling of the respondent for his re-cross-examination by way of additional evidence, has been dismissed.

2. Learned counsel for the petitioner submits that the impugned order dated 31.01.2025 (Annexure P-3) is not sustainable as the learned Rent Controller has failed to appreciate that it was only during the trial, that the present petitioners came to know that the shops which were earlier got evicted by the respondents on the ground of personal necessity from the other tenants is now again let-out to some other tenants on increased rate



of Rent. It is submitted that after coming into the knowledge, present petitioners immediately moved an application (Annexure P-2) before the Rent Controller for recalling the respondent for his re-cross examination by way of additional evidence invoking the provision of Order 18 Rule 17 of the CPC. A bare perusal of the above said Rule shows that the court may recall any witness during the trial which helps the court to decide the fate of the case. The main purpose of the said rule is to enable the Court, while trying a suit, to clarify any doubts which it may have with regard to the evidence led by the parties. It is now well settled that 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. If the evidence on re-examination of a witness has a bearing on the ultimate decision of the suit, it is always within the discretion of the Trial Court to permit recall of such a witness for re cross-examination. It is accordingly prayed that the present Revision Petition be allowed; and the impugned order dated 31.01.2025 (Annexure P-3) be set aside.

3. No other argument is raised on behalf of the petitioner.
4. I have heard Id. counsel and perused the case file in great detail.
5. Brief facts of the case are that the respondent/landlord had filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act (Annexure P-1) on 14.12.2021 seeking eviction of the petitioners from the demised premises. In the said Rent Petition, petitioners had filed an application dated nil (Annexure P-2) *“for recalling the petitioner for his re*



cross-examination by way of additional evidence.” Perusal of the said application reveals that the ostensible reason cited by the petitioners for seeking recalling of the respondent for re-cross-examination is mentioned in para-No.2 thereof, which is reproduced herein below:-

“It is pertinent to mention here that in this case the petitioners were examined and stated that the property in question requires by him a his personal necessity. In fact by doing so, the petitioners are misleading the misguiding the Hon'ble Court. As matter of fact the petitioners have let out the said shops to different tenants after getting the same vacated and now the intentions of the petitioners is very much clear that after getting the property in question vacated from the innocent respondents, the petitioners are going to let out the same to other tenants at higher rates, which is against the principal of natural justice and bye laws.”

6. A bare reading of the above averments shows the same to be utterly vague in nature. Despite repeated query by this Court, learned counsel for the petitioners has not been able to inform this Court as to any details regarding the other purported shops got vacated by the respondent. Even though detail is forthcoming regarding the other orders passed whereby other properties of the respondent/landlord have been vacated.

7. During arguments, it has been admitted by learned counsel for the petitioners that the present application was filed by the petitioner on 25.11.2024 (Annexure P-2) and the previous eviction orders purportedly passed in favour of the respondent are of the year 2021. Learned counsel for the petitioners has been unable to give any reason whatsoever as to



why the said orders were not referred to by the petitioners previously. Learned counsel is unable to apprise whether any such plea was taken by the petitioners in their written statement. In any event, if that is so, no reason had been given by learned counsel for the petitioners as to why the respondent was not confronted with the said orders during his cross-examination. It is further not denied by learned counsel for the petitioners that the respondent was examined on 20.07.2023 and, thereafter, the matter has been fixed for evidence of the petitioners.

8. In these circumstances, it is correctly observed by the Id. Rent Controller in the impugned order as under: -

“In K.K. Velusamy vs. N. Palanisamy, (2011) 11 SCC 275, Hon'ble Apex Court has observed, "Order 18 Rule 17 of the Code enables the court, at any stage of a suit, to recall any witness who has been examined (subject to the law of evidence for the time being in force) and put such questions to him as it thinks fit. 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 doubts it may have in regard to the evidence led by the parties. The said 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 of the Code 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.



Order 18 Rule 17 is primarily a provision enabling the court to clarify any issue or doubt, by recalling any witness either suo moto, or at the request of any party, so that the court itself can put questions 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".

9. In any event, it is open to the petitioners to adduce evidence regarding the said alleged fact/said eviction orders, in their own evidence.

10. In view of the same, present Civil Revision Petition is hereby **dismissed.**

11. Pending application, if any, stands disposed of.

17.07.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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