



CR-5824-2025

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

(121)

CR-5824-2025(O&M)
Date of Decision:-10.09.2025

Amit Singhal

.....Petitioner

Versus

Ashok Kumar Madan

.....Respondent

**CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH
GREWAL**

Present: Mr.Randhir Singh Hooda, Advocate,
for the petitioner.

Mr. Tanmoy Gupta, Advocate,
for the respondent.

AMARINDER SINGH GREWAL, J. (Oral)

1. The present revision petition under Article 227 of the Constitution of India has been filed to assail the impugned order dated 14.05.2025 (Annexure P/5) passed by the learned Rent Controller, Gurugram in RP No.55/2022 titled *Ashok Kumar Madan vs. Amit Singhal*. By the said order, the learned Rent Controller dismissed the application filed by the petitioner-tenant under Order 18 Rule 17 read with Section 151 of the Code of Civil Procedure, seeking recall of PW1 (respondent/landlord) for further cross-examination.

2. The brief facts of the case are that the respondent-landlord filed an eviction petition under Section 13 of the Haryana Urban (Control



of Rent & Eviction) Act, 1973 (hereinafter referred to as '*Rent Act*') on the ground of bona fide personal necessity. The petitioner-tenant filed a written statement contesting the claim. Issues were framed on 16.12.2022. The respondent examined himself as PW1 and closed his evidence on 13.02.2023. The matter was thereafter fixed for evidence of the petitioner-tenant.

3. During the course of proceedings, the petitioner moved an application under Order 18 Rule 17 CPC to recall PW1 for further cross-examination on the ground that the respondent had concealed material facts regarding his stay in India and Canada and that production of documents like passport and travel records was necessary for the just adjudication of the matter. The learned Rent Controller, after hearing both sides, dismissed the application.

4. Learned counsel for the petitioner argued that the respondent has concealed material facts in his eviction petition regarding his residence abroad and to establish whether the plea of personal necessity is bona fide, it was necessary to further cross-examine PW1 with reference to his passport and travel records. Since these facts came to light only subsequently, recall of PW1 was necessary to bring truth on record. The rejection of the application has caused serious prejudice to the petitioner, and therefore, a prayer regarding impugned order is liable to be set aside, has been made.

5. Per contra, it has been submitted on behalf of the respondent that the application under Order 18 Rule 17 CPC was a belated

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afterthought, moved only after closure of evidence and at the stage of final arguments, despite the petitioner had sufficient opportunities to cross-examine PW1 and no plausible explanation has been offered for the delay. He further submitted that the attempt is clearly to fill lacunae and just to delay the proceedings; and that recalling of PW1 at this stage would not only prejudice the respondent-landlord, who seeks speedy adjudication of his bona fide necessity, but would also defeat the purpose of the Rent Act, and as the impugned order of the learned Rent Controller is well-reasoned and suffers from no perversity or jurisdictional error, the present revision petition is liable to be dismissed.

6. I have heard learned counsel for the petitioner and perused the paper book.

7. It is undisputed that the petitioner had sufficient opportunities to re-examine the PW1 before the trial Court. The Hon'ble Supreme Court in *Vadiraj Naggappa Vernekar (Dead) vs. Sharadchandra Prabhakar Gogate, (2009) 4 SCC 410*, has clearly held that the power under Order 18 Rule 17 CPC is discretionary, to be used sparingly and only in exceptional circumstances. It is not meant to fill up lacunae in evidence or to provide a second chance to a party who has already had ample opportunity to present its case.

8. Similarly, in *M/s Bagai Construction vs. M/s Gupta Building Material Store, (2013) AIR SCW 1564*, it was held that applications for additional evidence at a belated stage, after closure of evidence and at the stage of final arguments, cannot ordinarily be permitted, particularly



where the party has failed to show due diligence. It was categorically held that as rightly observed by the trial Court, there is no acceptable reason or cause which has been shown by the plaintiff as to why these documents were not placed on record by the plaintiff during the entire trial.

9. The law requires that, when an application is made at a belated stage, the applicant must satisfy the Court on three essential heads — (i) the pertinence and materiality of the evidence sought to be tendered (whether it is likely to have a real bearing on the adjudication); (ii) the explanation for the delay (why the document could not be and was not produced during the trial despite opportunities); and (iii) the absence of prejudice to the opposite party or, where prejudice exists, why that prejudice can be suitably compensated or cured without causing injustice. The balance among these considerations will depend on the facts of each case, including the stage at which the application is made. Application of these principles to the present case leads to the conclusion that the learned trial Court did not err in exercising its discretion to refuse the belated application

10. The plea that the respondent's passport and travel documents are necessary could and should have been raised during the regular course of cross-examination of PW1. The history of the case reveals that the matter had been adjourned repeatedly, and sufficient opportunities were granted to the petitioner. Permitting recall at this stage would not only delay the matter further but would also cause prejudice to the respondent-landlord.

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11. For the reasons recorded above, the present revision petition is found to be devoid of merit and is hereby **dismissed**, without commenting upon the merits of the main suit.

12. All pending application(s), if any, stand disposed of accordingly.

(AMARINDER SINGH GREWAL)
JUDGE

10.09.2025

Shubham

Whether speaking/reasoned:-	Yes/No
Whether Reportable:-	Yes/No