

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2922 OF 2015

J.B. Metal Industries Pvt. Ltd.

.. Petitioner.

vs.

Arjandas Tekchand Kashyap

.. Respondent.

Ms Sonali Kunekar i/b Mr. Vikas Mahangare for the Petitioner

**CORAM : M. S. SONAK, J.**

**DATE : 20 MARCH, 2015.**

**P.C. :-**

1] Not on board. Upon production, taken on board.

2] This petition challenges the order dated 23 January 2015 made by the City Civil Court declining recalling of Mr. Naresh Bajaj DW-3.

3] The only case set out by the petitioner for recall of the witness is that such witness has to make some statement about the whereabouts of Mr. S.P. Pariyani. This statement, according to the learned counsel, is important because a document with which the said person is concerned, has already been permitted to be produced on record.

4] The City Civil Court, has rejected such application, and in my judgment, there is no jurisdictional error involved in such rejection. This is because, the reason stated by the petitioner, was by no means sufficient to exercise extra ordinary powers under Order 18 Rule 17 of the CPC. Under the said provisions, the Court may at any stage of a suit recall any witness who has been examined and may subject to the law of the evidence for the time being in force put such questions to him as this Court thinks fit. Therefore, this is basically a provision to enable the Court to recall a witness, particularly where there is some ambiguity in the deposition recorded or for any other sufficient reasons. This is certainly not a provision to enable the party to fill-up lacunae in their case.

5] Accordingly, there is no reason to interfere with the impugned order. This petition is dismissed. There shall be no order as to costs.

**(M. S. SONAK, J.)**