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

**Civil Revision No.2227 of 2017 (O&M)
Date of Decision: 24.07.2017**

M/S MAPLE LOGISTICS PVT LTD

.....Petitioner

Vs

M/S RIBA TEXTILE PVT LTD & ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:None for the petitioner.

Mr. J.S. Rozera, Advocate
for respondent No.1.

Mr. Ajit Malik, Advocate
for respondent No.2.

Ms. Aditi Tambi, Advocate
for respondent No.3.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has assailed order dated 04.03.2017 passed by Addl. Civil Judge (Sr. Divn.) Gohana vide which prayer made for recall of witness No.3 ASI Krishan for further cross-examination was rejected.

[2]. On 12.07.2017, none appeared on behalf of the petitioner even after three pass overs. Today also, none has come present to address arguments on behalf of the petitioner.

[3]. ASI Krishan is sought to be recalled for further cross-examination at the instance of the petitioner/defendant No.1. ASI Krishan has already been examined completely. His further cross-examination is sought on the ground that he being an Investigating Officer of the FIR is required to answer some questions which were not asked at the relevant time. Provision in terms of Order 18 Rule 17 CPC is sought to be invoked for recalling of the witness.

[4]. Both the parties were granted sufficient opportunities to lead evidence. After availing the opportunities, they have led their respective evidence. It appears that the Investigating Officer of the case is again sought to be examined in order to extract something which can be used in a criminal trial. Order 18 Rule 17 CPC can only be invoked when the Court is satisfied that the further cross-examination of the witness is necessary for helping the Court to arrive at a just conclusion. The purpose of Order 18 Rule 17 CPC is very limited for which discretion of the Court has to be exercised in a very judicious manner.

[5]. In **Surinder Kaur vs. Karanbir Singh, 2004(3) RCR (Civil) 161** it was highlighted that the provision in terms of Order 18 Rule 17 is merely an enabling provision for the convenience of the Court and the same cannot be utilized by the parties to re-examine any witness in order to fill lacuna in the case. This

power has to be exercised very sparingly that too in an exceptional case. Though the Court, may at any stage of the suit recall any witness, who has been examined, but the said provision does not permit any party to seek re-examination of the witness as a matter of right. The language of Order 18 Rule 17 CPC is limited to the extent of convenience of the Court, where the Court requires such evidence to be led by the parties. The assistance of the Court for the exercise of its inherent power cannot be utilized to fill lacuna in the evidence.

[6]. The Hon'ble Apex Court in **Ram Rati vs. Mange Ram (D) through LRs and others, 2016(2) RCR (Civil) 464** has embarked upon the controversy and ruled that recalling of the witness for further elaboration on the left out issues is wholly impermissible in law. The purpose of Order 18 Rule 17 CPC is very limited and is discretionary in nature. This provision can only be invoked by the Court for its convenience and not on the asking of any party.

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

July 24, 2017

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No