

CR No. 4003 of 2019 (O&M)

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

CR No. 4003 of 2019 (O&M)

Date of Decision: July 03, 2019

Sanjay

..... Petitioner(s)

Versus

Rajatdeep Singh Gulati and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ravinder Rana, Advocate
for the petitioner.

LISA GILL, J.(oral)

This revision petition has been filed by the petitioner being aggrieved of order dated 22.05.2019, passed by the learned Rent Controller, Karnal, whereby his application under Order 18 Rule 17 read with Section 151 CPC for recalling and re-examination of landlord (PW-1) has been dismissed.

Evidence of both the parties stood concluded and an application under Order 18 Rule 17 read with Section 151 CPC was moved by the present petitioner (tenant) on 25.04.2019 with the averments that after the petitioner's evidence had been closed, one witness RW-5, who was examined by the present petitioner produced certain photographs of the demised premises. RW-5 was subjected to cross-examination by counsel for the petitioner and a suggestion was put to him that the photographs are not of the demised premises and some alteration and morphing has been done. In this view of the matter, the present petitioner sought to recall PW-1 in order to put the said photographs to

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him. This application has been dismissed by the learned Rent Controller finding no justification in recall of PW-1.

I have heard learned counsel for the petitioner and have gone through the file.

Learned Rent Controller while dismissing the application under Order 18 Rule 17 of CPC, observed as under:-

“As per the averments of the application, some photographs has been got proved by RW-5 on behalf of respondent and some suggestions have been put to the said witness by Learned counsel for petitioner that the said photographs produced by witness are not of demised premises and they are forged and fabricated, but it is not sufficient ground for re-calling or re-examining the petitioner who had already been examined as PW-1 and was cross-examined by Learned counsel for respondent at length. Furthermore, it is petitioner who has to prove the grounds mentioned in the petition for the purpose of succeeding the petition and the ground for putting the photographs to PW-1 and for that purposes, recalling him again is not just. No doubt as per Order 18 Rule 17 CPC, any witness can be recalled or re-examined by the Court but re-examination of the witness should be necessary for the purpose of ultimate decision and it is discretion of the Court to recall or re-examine any witness. Reliance can be placed upon titled as M/s. Maple Logistics Pvt. Ltd. Vs. M/s. Ribe Textile Ltd. and others 2017(3) Law Herald 2201 in which, it has been held that recalling of witness for further elaboration on left out issues wholly impermissible in law and the purpose of Order 18 Rule 17 CPC is very limited and discretionary in nature. The provisions to only be invoked by Court for its convenience and not on asking of any party.

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In the opinion of this Court, there is no justification to recall PW-1 who has already been cross-examined at length as putting of the photographs to said witness by way of recalling him will not effect the ultimate decision of the petition. The discretion provided in Order 18 Rule 17 CPC is too be exercised judicially and not arbitrarily. There is no justification for exercising discretion to recalling or re-examining of this witness who had already been cross-examined.”

Learned counsel for the petitioner is unable to point out any ground for or justification for recalling or re-examination of PW-1. The ground that certain suggestions were put to RW-5, which requires further clarification from PW-1 i.e. the landlord, is indeed not a ground for recalling the said witness. There is no illegality, infirmity or perversity in the impugned order dated 22.05.2019, passed by the learned Rent Controller, Karnal, which calls for any interference by this Court at the instance of the petitioner.

No other argument has been addressed.

Accordingly, the petition is dismissed.

July 03, 2019

Sunil

**(Lisa Gill)
Judge**

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