

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION (WP) NO.3187 OF 2021

[Mahendrakkumar Ranchoddas Gohel and Anr. **..Vrs..** Satsang
Bhawan through trustees]

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
order and Registrar's orders.*

Court's or Judge's

Shri. S. A. Mohta, Advocate for the Petitioners

CORAM : **N. B. SURYAWANSHI, J.**
DATE : **26th AUGUST, 2021.**

1. This petition challenges the refusal of permission to the Petitioners to re-examine the Witness No.3, in Regular Civil Suit No.333 of 2007.

2. The said suit is filed by the Respondent/Trust seeking possession of House No.683 in Ward No.41 situated on Nazul Plot No.9, Nazul Sheet No.40 (suit property) for bonafide requirement. During the course of the trial, Witness No.3 was examined on behalf of the Petitioners/Defendants. The said witness during the cross-examination has stated that his laundry shop was vacated by him and Sujog Chikitsa Clinic is opened there in that shop. He further stated that the Trust is a charitable Trust and he does not know whether the said Trust was for charity or not.

3. The Petitioners/Defendants submitted that since during the cross-examination of this witness, he has stated different facts, therefore his re-examination may be permitted. The said prayer is rejected by the Trial Court holding that the said witness has answered

the questions put to him in the cross-examination and the answers were given by him on the basis of his knowledge. There does not appear any variance in the answers given by this witness, and therefore, there is no question of re-examination of this witness.

4. It is a settled legal position that re-examination of the witness is permissible only in case some new fact, is disclosed by the witness in the cross-examination. Such is not the case in this matter. The learned Advocate for the Petitioners placing reliance on Order 18 Rule 17 contended that at any stage of the suit, the Court can recall witness who has been examined and may put such questions to him as the Court thinks fit. The said provision in my opinion would not be applicable, as the Court has refused permission to re-examine the witness. No substance is found in the writ petition, the writ petition, is therefore, **dismissed**.

(N. B. SURYAWANSHI, J.)