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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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Date of decision : 10.02.2025

Prem Parkash

... Petitioner

Versus

Jai Parkash

... Respondent

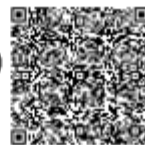
CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Davinder Singh, Advocate,
Ms.Rajinder Kaur, Advocate and
Ms.Shivangi, Advocate
for the petitioner.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 08.01.2025 (Annexure P-13) passed by the Rent Controller, Ludhiana, vide which the cross-examination of the respondent Jai Parkash is treated as Nil as well as impugned order dated 27.01.2025 (Annexure P-17) passed by the Rent Controller, Ludhiana, vide which the application dated 17.01.2025 (Annexure P-15) filed by the petitioner for recalling the order dated 08.10.2025 has been dismissed.

2. Learned counsel for the petitioner has submitted that the petitioner could not cross-examine the respondent-landlord since his counsel Mr. Sunil Sharma, Advocate was under treatment with respect to



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problem in lower back and for the said purpose, the petitioner has referred to medical certificate dated 05.01.2025 from a private hospital. It is submitted that the petitioner be granted one opportunity to cross-examine the said respondent-landlord.

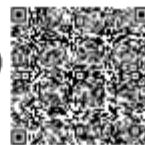
3. This Court has heard learned counsel for the petitioner and has perused the paper book and finds that the impugned order deserves to be upheld and the present petition being meritless deserves to be dismissed for the reasons stated hereinafter.

4. The respondent-landlord had filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 for ejectment of the present petitioner from the shop in question on 22.12.2021. The eviction was sought on various grounds including the ground of personal necessity as well as arrears of the rent.

5. It is not in dispute that on 29.11.2024, the present petitioner had moved an application for seeking permission to cross-examine the respondent-landlord in view of the additional evidence produced by the respondent-landlord and the same was allowed vide order dated 18.12.2024.

The relevant portion of the said order is reproduced hereinbelow:-

“.....Although it is contended by learned counsel for the petitioner that there is no need for any further cross-examination of the petitioner as only documents have been tendered into evidence, but if applicant/respondent is not allowed to cross-examine the petitioner on the documents tendered into additional evidence, it would tantamount to throwing away the case of applicant/respondent without even affording him an opportunity to rebut the documentary



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*evidence adduced by the petitioner. So in the interest of justice, present application is allowed and **only one effective opportunity is granted to the respondent to re-cross-examine the petitioner on the documents tendered by the petitioner in additional evidence. For re-cross-examination of the petitioner, the case stands adjourned to 08.01.2025.***

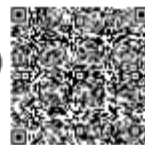
Pronounced in open Court;

Dated: 18.12.2024.

*(Preeti Sukhija)
Civil Judge (Sr.Divn.),
Ludhiana. UID No.PB0276”*

A perusal of the above order would show that the Rent Controller had granted only one effective opportunity to the present petitioner to re-cross-examine the respondent with respect to the documents tendered and a specific date i.e. 08.01.2025 was given. It would be relevant to note that the said case was argued on behalf of the present petitioner by Sh.Anurag Sharma, Advocate. It would further be relevant to note that the order dated 18.12.2024 has not been challenged any further and thus, only one opportunity was required to be granted to the petitioner and that to for 08.01.2025. On 08.01.2025, although the respondent-landlord was present for cross-examination but the same was not done and thus, in view of the order dated 18.12.2024, opportunity to cross-examine with respect to additional documents was treated as Nil. There is nothing on record to suggest that on 08.01.2025, it was stated before the trial Court that there was any medical problem with the counsel as it was only stated that the counsel was not available.

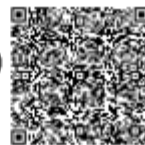
6. The application filed for recalling of the order dated 08.01.2025 was dismissed vide order dated 27.01.2025 by observing that on

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18.12.2024 one opportunity was granted and thus, it was not for the trial Court to review its own order. It was further observed that the documentary evidence, which were certified copies of the order were filed in additional evidence and sufficient cross-examination had already been conducted previously and thus, the application was dismissed.

7. The fact that vide order dated 18.12.2024, only one opportunity was granted has not been disputed before this Court. The said order dated 18.12.2024 has attained finality and once the present petitioner was not able to avail the said opportunity for which the case was fixed for 08.01.2025, no further opportunity could have been granted to the petitioner. A perusal of the order dated 18.12.2024, as well as the detailed order dated 05.11.2024, would show that Sh. Anurag Sharma, Advocate, had been appearing for the present petitioner and it is not the case of the petitioner that Sh. Anurag Sharma, Advocate had any medical problem and thus, the said Sh. Anurag Sharma, who had been repeatedly appearing in the matter, could have cross-examined the said respondent-landlord, moreso, when the said cross-examination was only on the limited point with respect to documents, which were only certified copy of the petition titled as “Jasjit Singh vs. Prem Parkash”, certified copy of the written statement filed in the same and also the sale deed which was executed by the present petitioner from one Jasjit Singh (which facts have been informed to this Court by learned counsel for the petitioner). Even the application for recalling has been rightly dismissed vide order dated 27.01.2025.

8. The Coordinate Bench of this Court in the case of *Neeraj*



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Jindal Vs. Manju, CR No.5243 of 2019, decided on 30.08.2019 had observed that the provision of Order 18 Rule 17 CPC which is with respect to recalling and re-examining the witnesses, cannot be invoked by a private party as the aforesaid provision is meant only for the convenience of the Court and that the said powers can only be exercised by the Court according to its convenience and the parties to the litigation cannot invoke the same. The relevant portion of the said judgment is reproduced hereinbelow:-

“.....Even otherwise, process of the Court in terms of Order 18 Rule 17 CPC cannot be invoked by the private party as the aforesaid provision is meant only for convenience of the Court. The Court at any stage can re-call any witness who has been examined and may put such questions to him as the Court thinks fit but the said exercise does not permit a party to reexamine any witness or to fill lacuna in the case.

*In view of ratio laid down by Hon'ble Apex Court in **K.K. Velusamy vs N. Palanisamy, (2011) 11 SCC 275** and **Ratti Ram vs Mange Ram (D) through LRs and others, 2016 (2) RCR (Civil) 464**, powers under Order 18 Rule 17 CPC can only be exercised by the Court according to its convenience and the party to the litigation cannot invoke the said provision.*

*The aforesaid principle was also reiterated in **Vadiraj Nagappa Vemekar vs Sharadchandra Prabhakar Gogate, (2009) 4 SCC 410**.*

For the reasons recorded hereinabove, I do not see any justification to interfere in the impugned order which is not found to be suffering from any error of jurisdiction.

This revision petition is accordingly, dismissed.”

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9. Moreover, a perusal of Order 18 Rule 17 CPC would show that it is the Court which has the power to recall any witnesses who has been examined and put questions to him as the Court thinks fit and there is no vested right in a private party to seek recalling of the witnesses for the purpose of further cross-examination.
10. It is apparent that the tenant is only trying to delay the proceedings and thus, the impugned orders deserve to be upheld and the present petition deserves to be dismissed and is accordingly dismissed.

(VIKAS BAHL)
JUDGE

February 10, 2025.
Davinder Kumar

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