



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-1411-2024 (O&M)
Date of Decision: December 10, 2025

M/s The Food Book Cafe and another
...Petitioners

Versus

Rashmi Chadha
...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Prateek Sodhi, Advocates
for the petitioners.

Mr.Aayush Gupta, Advocate
for the respondent.

ARCHANA PURI, J.

The petitioner has invoked the jurisdiction of this Court under Article 227 of the Constitution of India, for setting aside the order dated 08.02.2024 passed by learned trial Court, whereby, an application filed by the petitioner for seeking re-call of the witness i.e. PW-1 Tej Pal Chadha, for further cross-examination was dismissed.

In pursuance of the notice issued, the respondent made appearance through counsel.

Counsel for the parties heard.

As culled out from the paperbook, initially respondent Rashmi Chadha (plaintiff) had filed a suit for ejectment of the petitioner-defendant,

thereby, asking to deliver vacant possession of the property, as detailed in the headnote of the plaint, copy whereof is Annexure P-1.

During the pendency of the said suit, Tej Pal Chadha, attorney holder of Rashmi Chadha, had stepped into witness box as PW-1. His affidavit was tendered in evidence and thereupon, he also faced cross-examination and evidence was closed by the respondent-plaintiff. When the case was at the stage of recording of the evidence of the petitioner-defendant, an application was filed on 25.01.2025 for recall of PW-1 Tej Pal Chadha, copy whereof is Annexure P-12.

Reply to the same was filed. After hearing counsel for the parties, the application was dismissed vide impugned order.

Being aggrieved, the petitioner-defendant has filed the present revision petition.

It is submitted by learned counsel for the petitioner that while adjudicating the application for recall of the witness Tej Pal Chadha, attorney holder of Rashmi Chadha, learned trial Court did not appraise the factual position in correct perspective. In fact, it is submitted that earlier the defence of the respondent was struck off by the Court of 30.05.2022, on account of non-compliance of the order dated 30.04.2022, vide which, the rent was provisionally assessed and necessary compliance of the payment was not made. However, this order was challenged before this Court vide CR-2816-2023. Further, he submits that the said order was set aside vide order dated 29.08.2023 passed by this Court. Consequent to the setting aside of the aforesaid orders, there is change of circumstances and on this account, there is need for recall of the witness for putting up of the proper

defence of the petitioner, who is defendant before learned trial Court.

On the other hand, learned counsel for the respondent has submitted that sufficient opportunity was availed by the petitioner to conduct cross-examination of Tej Pal Chadha and it was not only one opportunity, which was availed, but several opportunities were availed and thereafter, the evidence was closed. Only when the case fixed at the stage of recording of the defendant evidence that the application, as such, has been filed. While making reference to the contents of the application, copy whereof is Annexure P-12, he also submitted that the assertions made for recall are also quite vague, which do not build any case for further cross-examination of the said witness and therefore, counsel submits that there is no merit in the revision petition.

In view of the submissions aforesaid, it is important to make reference to the application, so filed for recall of witness Tej Pal Chadha. Perusal of the said application Annexure P-12 reveals that therein it is stated that cross-examination of PW-1 was not done in detail and there are many line of questions, as per the facts of the case, which are required to be asked from PW-1. It is stated therein, that plaintiff had closed the evidence on 18.11.2022, but the defendant still want to cross-examine PW-1, in detail. Furthermore, it is also asserted that entire line of questions required as per the defence of the defendant, was not asked by the previous counsel in depth and therefore, still many questions are required to be put to PW-1 in detail. For this purpose, it was asserted that recall of said witness is essential for the just decision of the case. Further, it was asserted that no prejudice is caused to the rights of the plaintiff.

However, in reply, there was resistance to the said application and it was asserted that evidence was closed on 18.11.2022 and the application was filed on 24.01.2024, when several opportunities were already availed for leading evidence of the defendant.

From the contents of the application, it is evident that quite a vague assertion has been made. Solely, on account of certain questions having not been put, on account of change of counsel, no case is made out for recall of the witness for further cross-examination. Considering the submissions made by counsel for the petitioner now, also it is essential to take note of the progress of the case. During the pendency of the suit, as evident from the zimini orders placed on record, the rent was provisionally assessed by the Presiding Officer on 30.04.2022 and the case was further adjourned for 30.05.2022, for making payment of the same.

However, the subsequent order reveals about the necessary compliance of the order dated 30.04.2022, having not been made. The defence was struck off and the case proceeded further. Issues were also framed and furthermore, the evidence was recorded. Tej Pal Chadha, attorney holder of the respondent-plaintiff tendered into evidence, his affidavit on 24.05.2022, copy whereof is there on the paperbook. Further, his cross-examination was also conducted, not only once, but 2-3 times and ultimately, it was concluded on 18.11.2022. At no point of time, while conducting of cross-examination, any request was made to the Court, about the orders of 30.04.2022 and 30.05.2022, having challenged before this Court. However, it is significant to note that while conducting the cross-examination, counsel for the petitioner (who is defendant before learned

trial Court), had raised the plea for putting the statement of the witness recorded before the police and with regard to the same, it was again sensitized by the Court that the defence of the defendant was struck off, under Order 15 Rule 5 CPC and that defendant could only cross-examine the witness on legal points. At that stage also, nothing was disclosed about the revision petition, being pending.

No doubt, it is evident that to assail the orders dated 30.04.2022 and 30.05.2022, with regard to the assessment of provisional rent and non-compliance of the same, consequent whereof, the defence was struck off, CR-2816-2023 was filed, but however, on the basis of the statement got recorded, with regard to the rent paid and also the adjustment of the same for the period for which the rent was due, the revision petition dealt by the undersigned, on 29.08.2023 and in the light of the aforesaid, the revision petition was accepted and the orders dated 30.04.2022 and 30.05.2022 impugned therein, were set aside. The order dated 29.08.2023 was passed on consensual basis, in the presence of both the counsel, who are also making appearance, for the rival parties, in the present revision petition. At that stage also, no submission was made for the recall of witness PW-1 Tej Pal Chadha, in the light of change of circumstances. This order was passed on 29.08.2023 and even, after the disposal of the revision, the case continued to proceed further. An application for seeking recall was filed on 25.01.2024.

As already observed aforesaid, the assertions in the application are quite vague. There is mention made in the application that it was on account of bad legal advice from the previous counsel, the cross-

examination of PW-1 was not done in detail and many questions were not asked as per the facts of the case. Therein also, the emphasis was only upon the line of defence, having not been put, solely on account of change of advocate. In the said application also, the submission, as now made of the changed circumstances, was not put forth. The emphasis was only upon the case, not having been properly handled by the previous advocate and on account of bad legal advice, some questions were not put to the witness, who is sought to be recalled.

However, this is no ground made out for seeking recall of the witness. Qua the pendency of the revision petition and the manner of disposal of the revision petition and further, asserting about the change of circumstances, as such, the application for recall, is absolutely silent. The case progressed further, after the conducting of the cross-examination of PW-1. The evidence was closed and the case proceeded further for evidence of the defendant and for that also, several opportunities were earlier availed.

In the light of the same and more particularly, considering the contents of the application, at this stage, no case is made out for recall of the witness. Hence, the impugned order brooks no interference, while exercise of revisional jurisdiction.

Hence, the revision petition sans merit and is hereby dismissed.

December 10, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No