



133

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

CR-1664-2025

Date of decision: 20.03.2025

Mukhtiar Kaur

...Petitioner

Versus

Gurdeep Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Dhiraj Jindal, Advocate for the petitioner.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 06.03.2025 (Annexure P-1) passed in Civil Suit No.570 of 2018 titled as “Gurdeep Singh Vs. Mukhtiar Kaur” by the Civil Judge (Senior Division), Barnala whereby the application filed by the petitioner/defendant for recalling of the witness-Gurdeep Singh for further cross-examination had been dismissed.

2. In the present case, the suit was filed in the year 2018 and a perusal of the impugned order would show that the application filed by the petitioner for recalling the plaintiff-Gurdeep Singh for his further cross-examination by invoking the provisions of Order 18 Rule 17 CPC was on the plea that the previous counsel had not properly cross-examined the said PW5-Gurdeep Singh(plaintiff). The said plea did not favour with the trial Court. The trial Court further observed that it was settled law that the provision of Order 18 Rule 17 CPC did not give any vested rights to the



party to recall the witnesses but is only an enabling provision for the Court.

3. The Coordinate Bench of this Court in the case of ***Neeraj 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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No contrary law has been cited by learned counsel for the petitioner.

4. 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 it 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. The ground taken by the petitioner for recalling the witness is that the previous counsel had not properly cross-examined the said witness. The said ground is baseless and in case recalling of witnesses is allowed on such pleas, then it could lead to a situation where the witnesses, who have already been examined and cross-examined, are repeatedly recalled just to fill up the lacuna or to delay the proceedings.

5. Keeping in view the abovesaid facts and circumstances and law laid down in the above said judgments, the impugned order is upheld and the present revision petition being meritless, deserves to be dismissed and is accordingly, dismissed.

20.03.2025

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No