

**In the High Court at Calcutta**  
Civil Revisional Jurisdiction  
Appellate Side

29 07.4.2026  
Sc Ct. no.6

**Case No. : C.O. 1112 OF 2026**

**In the matter of : Sri Netai Chandra Ghosh**

....Defendant No. 5/  
Petitioner

**VS.**

**Sri Goutam Ghosh & Ors.**

....Plaintiffs/ Opposite Parties

**For the Defendant No. 5/Petitioner:**

Mr. Sukumar Ghosh  
Ms. Moumita Ghosh.

....Advocates

1. This revisional application is directed against an order dated March 5, 2026 passed by the learned Civil Judge (Junior Division), 1<sup>st</sup> Court at Howrah in Title Suit No.145 of 1989, whereby the petitioner's application under Order XVIII Rule 17 read with Section 151 of the Code of Civil Procedure, 1908 (hereafter 'the Code') has been rejected by the learned trial Court.
2. The petitioner in the revisional application is one of the several defendants (defendant no.5) in the suit. The petitioner has filed an application under Order XVIII Rule 17 read with Section 151 of the Code of Civil Procedure, 1908 seeking recall of Sri Netai Chandra Ghosh (D.W. -1) for exhibiting certified copy of the judgment passed in Title Suit No.1 of 2004 by the same learned Court, Khajna Dakhilas as well as the Record of Rights which the petitioner

asserted to be pertaining to the suit property and also to put certain questions mentioned in the schedule of such application, to such witness upon recall.

3. Learned Advocate appearing for the petitioner submits that the learned Trial Court has failed to appreciate that witness can be recalled at any time under the provisions of Order XVIII Rule 17 of the Code. It is further submitted that the documents sought to be exhibited were relevant evidences. He relies on a judgment of the Hon'ble Supreme Court in the case of ***K.K. Velusamy vs. Palaanisamy***, reported at ***2011 (11) SCC 275*** and submits that in terms thereof, the learned Trial Court ought to have allowed the petitioner's application under Order XVIII Rule 17 of the Code by recalling the witness as prayed for.
4. This Court is unable to find any reason to interfere with the order impugned. While it is true that the provision of Order XVIII Rule 17 of the Code vests authority with the Court to recall any witness at any point of time but it is equally true that such power is to be exercised only if the Court is satisfied that the witness concerned is required to be recalled for the purpose of clarification of any doubt or removal of any doubt. Ergo, if an application is made by a party requesting the Court to recall a witness in exercise of its power under Order XVIII

Rule 17 of the Code it would be incumbent on the party to demonstrate why the witness concerned is required to be recalled and how his/her deposition or any other evidence to be tendered through such witness would be necessary for the adjudication of issues in the suit or would assist the Court in adjudication of the issues in the suit.

5. The application filed by the petitioner does not even feebly indicate any reason as to why the witness is required to be recalled and how the documents sought to be exhibited are necessary or relevant for the purpose of adjudication of the issues involved in the present suit.
6. In fact the learned Trial Court has rejected the said application by observing that there was no mention in respect of the Title Suit No.01 of 2004 in the pleadings of the defendants and, as such, the judgment of the said Title Suit was not relevant for adjudication of the present suit.
7. The learned Trial Court has further observed that as the Khajna Dakhilas and the Record of Rights were in respect of plot nos. 17118, 17199 and 17119 and the suit plot nos. were 17719/19634 and 17719, therefore the same were not at all relevant for the purpose of the present suit. The learned Trial Court has found that none of the documents sought to be exhibited was relevant for adjudication of the matter. The learned Trial Court

has further found that evidence of D.W.1 had been completed on February 2, 2026 and the application for recall of witness under Order XVIII Rule 17 of the Code had been made only thereafter.

8. The Hon'ble Supreme Court has in the case of **K.K. Velusamy** (supra) clearly observed in paragraph 8 thereof that the power of recalling a witness is discretionary and should be used sparingly, in appropriate cases, to enable the Court to clarify any doubt that it may have in regard to the evidence led by the parties. In paragraph 16 thereof, the Hon'ble Supreme Court has sounded a word of caution and instructed that the provision under Section 151 or Order XVIII Rule 17 of the Code is not intended to be used routinely, merely for the asking. In paragraph 18 of the said judgment, the Hon'ble Supreme Court has recorded that it was satisfied that, in the case before it, it was necessary for the learned Trial Court to consider whether re-opening of evidence was required or not.
9. The aforesaid judgment, does not come to the aid of the petitioner in the case at hand inasmuch as in the instant case the learned Trial Court has clearly expressed that the material sought to be adduced in evidence is not relevant for the case at hand and the learned Trial Court has come to a definite conclusion that the same are not required for

complete and final adjudication of the matter in dispute.

10. For all the reasons aforesaid, this Court is unable to find any reason to interfere with the sound exercise of discretion by the learned Trial Court. In such view of the matter, the order impugned dated March 5, 2026 does not call for any interference.

11. C.O. 1112 of 2026 stands dismissed. No costs.

12. Photostat certified copy of this order, if applied for, be furnished expeditiously after completion of all formalities.

**(Om Narayan Rai, J.)**