

02.02.2026
Court No. 06
ML 149
February 2026
Sandip

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

C.O. 4186 of 2025

Smt. Umrawati Singh & Ors.
-Versus-

Md. Atiqur Rehman & Anr.

Mr. Abhisekh Banerjee,

Mr. S. Chattopadhyay

.....for the petitioners

1) The revisional application arises out of an order dated May 16, 2025 passed by the learned Civil Judge (Junior Division), 4th Court, Howrah in Title Suit No. 62 of 2014.

2) By the order impugned, the learned Court rejected an application filed by the petitioners/tenants in a suit for eviction seeking recall of the P.W. 1. The grounds taken was that due to inadvertence, certain important questions were not put to the P.W. 1. The learned Court held that power under Order 18 Rule 17 of the Code could only be exercised by the Court, even if filed at the instance of a party, for clarification. In the event there are

doubts or for further elucidation or answers are required by the Court, the witness can be recalled.

3) The Court was of the view that, nothing had come forward in the application filed by the petitioner/tenant, which would indicate that after closure of evidence of P.W. 1, certain vital questions which would have an impact on the adjudication of the suit were left out, and that, for the ends of justice those questions were required to be put to the P.W.

4) Learned advocate for the petitioners submits that questions with regard to payment of security deposit and the fact that the tenant was inducted in respect of the shop room on the ground floor at the very inception and he was in possession of one shop room at the ground floor and one room at the second floor, were not put to the P.W. 1 in his cross-examination.

5) From the application filed by the petitioners, I do not find that the particulars of the questions to be put to the P.W. 1 on recall, had been stated. A general application had been filed, inter alia, stating that due to some inadvertence and omission, the questions

relating to the suit property and extent of the tenancy had not been put to the P.W. 1 in cross-examination.

6) In my view, in a suit for eviction on the ground of reasonable requirement, payment of the security deposit is not relevant. I find from the written statement that, the defendant had already stated about shifting from the second floor to the ground floor in respect of premises measuring about 110 sq. ft. The shifting was effected for construction of the building by brining down the dilapidated suit building. The questions which the petitioners now want to put to the P.W. 1 upon recall, are already pleaded in the written statement and it is for the petitioners to prove their case, upon discharge of the onus by the plaintiff.

7) Under such circumstances, the petitioners can lead evidence on such issues. This Court does not find any reason to recall the witness as an application for recall under Order 18 Rule 17 of the Code of Civil Procedure was not maintainable. The said provision enables only the Court to recall witnesses for clarification. In the absence of any clarity as to what were the questions to be put to the P.W. 1 upon recall,

the Court rightly exercised discretion and rejected the application. The petitioners are at liberty to lead evidence in support of their case with regard to the extent of tenancy and the background as narrated in the written statement.

8) Accordingly, the revisional application is disposed of without any order as to costs. The order impugned is not interfered with.

9) Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Sarkar, J.)