

18.06.2026

Ct. No. 6
Sl. No. 18
Moumita

IN THE HIGH COURT AT CALCUTTA
Civil Revisional Jurisdiction
Appellate Side

CO 4373 of 2025

Ranjit Majhi
Vs.
Rita Pramanick and Anr.

Mr. Abhijit Roy, Adv.
Mr. Santh Nandy, Adv.
Mr. Sayantan Mallick, Adv.

....For the Petitioner

Mr. Shyamal Chakroborty, Adv.
Ms. Manju Jaiswal, Adv.
Mr. Achintya Kumar Mukherjee, Adv.

....For the Opposite Parties

1. This revisional application is directed against an order dated December 1, 2025 passed by the learned Judge (6th Bench) Presidency Small Causes Court at Calcutta, in Misc. Case No. 43 of 2024 arising out of Title Ejectment Execution Case No. 128 of 2004, whereby the petitioner's application praying for recalling of PW 1 has been rejected.
2. The opposite parties had instituted Ejectment Suit No. 219 of 1991 for eviction of their tenants. The matter travelled up to the Hon'ble Supreme Court where the tenants agreed to vacate the tenanted premises excepting a room at the ground floor. The Opposite Parties were granted liberty by the Hon'ble Supreme Court

to file appropriate proceedings in respect of the said room.

3. The opposite parties have initiated Ejectment Execution Case No. 128 of 2004. In the said execution case, the opposite parties filed an application under Order 21 Rules 97, 99 and 101 of the Code of Civil Procedure, 1908 which has been registered as Misc. Case No. 43 of 2024.
4. In the said Misc. Case, the opposite parties filed an application for recalling of OPW1 in order to re-examine the said witness and prove a letter dated May 16, 2024 issued to the opposite parties by Kolkata Municipal Corporation in response to said opposite parties' application under the Right to Information Act 2005.
5. Such prayer was allowed. Feeling aggrieved thereby the petitioner approached this Court by filing C.O. 3266 of 2025. The said application was disposed of by a Co-ordinate Bench of this Court by an order dated September 4, 2025 without interfering with the order impugned in the said revisional application. Accordingly, OPW1 was re-

examined. The petitioner also cross-examined OPW1.

6. Subsequently, the petitioner took out an application seeking opportunity to adduce rebuttable evidence on recall of PW1. Such application has been rejected by the learned Executing Court by the impugned order. Feeling aggrieved thereby the petitioner has approached this Court by filing the present revisional application.
7. Mr. Roy, learned Advocate appearing for the petitioner submits that as the opposite parties have been allowed to avail an opportunity to recall their witness, therefore the petitioner should also be permitted to recall their witness in order to rebut the evidence that has been adduced by the opposite party. It is further submitted that since by the order dated September 4, 2025 passed by this Court in C.O. 3266 of 2025 the learned Executing Court had been directed to proceed in accordance with law, therefore, it was incumbent on the learned Trial Court to allow the petitioner's application for recall of PW1 for the purpose of adduction of rebuttal evidence.

8. Mr. Chakroborty, learned Advocate appearing for the opposite parties submits that the petitioner is a sub-tenant in respect of a room. It is submitted that the suit for eviction of the tenant ultimately ended before the Hon'ble Supreme Court where the tenants agreed that they would vacate the premises excepting one room on the ground floor provided they were given time till December 31, 2022. It is submitted that it is this one room which is under possession of the petitioner.
9. Mr. Chakroborty, learned Advocate further submits that there is no provision whereunder the petitioner can be permitted to recall witness for the purpose of adducing rebuttal evidence.
10. It is further submitted by Mr. Chakroborty that, during adduction of evidence by the petitioner, the petitioner relied on a certified copy of the G.R. book from the Kolkata Municipal Corporation which revealed that he was recorded as a tenant and in view of such revelation, the opposite parties applied before the Kolkata Municipal Corporation under the Right to Information Act, 2005 in order to ascertain as to whether such recording was at

the behest of the petitioner only or based upon any inspection conducted by the Kolkata Municipal Corporation.

11. It is next submitted that the petitioner has already cross-examined the opposite parties' witness (OPW1) on recall.
12. Heard the learned Counsel appearing for the respective parties and considered the material on record.
13. It is evident that by the order dated September 4, 2025 a Co-ordinate Bench of this Court has upheld the order of recall of the opposite parties' witness (OPW1) for the purpose of adduction of evidence in terms of the application for recall.
14. On the prayer of Mr. Roy, opportunity was granted to the petitioner to cross-examine the witness of the witness of the parties. Such opportunity has been availed of in full by the petitioner. It is now well-settled that recall of witness cannot be demanded by a litigant as a right and it is a court-centric power which the Court has discretion to exercise if the Court feels that such recall is necessary. In the facts of the present case, it is evident that recall of PW1 was necessitated in view of a subsequent

information that was gathered by the opposite party based on the evidence adduced by the petitioner during his cross-examination.

15. Since the petitioner has cross-examined the opposite parties' witness in full and the application seeking recall of PW1 does not indicate any compelling reason for recall except the use of the expression "rebuttal evidence", this Court is not inclined to interfere with the order impugned. A perusal of the order impugned reveals that the Trial Court has considered all aspects of the matter and has justly passed the order in fair exercise of its discretion.

16. For all the reasons aforesaid the order dated December 1, 2025, calls for no interference C.O. 4373 of 2025 stands disposed of, there shall be no order as to costs.

17. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Om Narayan Rai, J.)