



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

CR-5269-2022 (O&M)

Date of Decision: March 19, 2026

Suresh Kumar

...Petitioner

Versus

Shree Sanatan Dharam Sabha (Regd.)

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Kashish Garg, Advocate
for the petitioner.

Mr.Binderjeet Singh, Advocate
for the respondent.

ARCHANA PURI, J.

Challenge in the present revision petition is to the order dated 17.10.2022 (Annexure P-5) passed by learned trial Court, whereby, an application filed by the petitioner for recalling of the witness AW-3 Rajinder Kumar, Drafstman was dismissed.

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

Counsel for the parties heard.

The facts germane, to be noticed, are as herein given:-

That, initially, respondent-plaintiff Shree Sanatan Dharam Sabha (Regd.), had a filed eviction petition under Section 13 of the East Punjab

**CR-5269-2022****-2-**

Urban Rent Restriction Act, 1949, thereby seeking ejectment of the petitioner-tenant from the shop, as detailed in the headnote of the petition, copy whereof is Annexure P-1. Therein, the plaintiff-landlord had asserted about the requirement of the demised shop by Shree Sanatan Dharam Sabha for its personal use and occupation i.e. for extension of passage of SSD Senior Secondary Boys School. When the said petition was at the stage of recording of the evidence, an application was filed for recall of AW-3 Rajinder Kumar Gupta, Draftsman, so as to prove his statement recorded in the case titled 'SSD Sabha vs. Yashpal Kapur', recorded by the Rent Controller.

In the application, it was asserted that Rajinder Kumar Gupta was examined as AW-3 by the petitioner-tenant. He had also made appearance as AW-2 in another case titled 'SSD Sabha vs. Yashpal Kapur'. The said witness was examined in the case under consideration on 27.03.2018 and 11.10.2018, whereas, his statement in other case was recorded on 27.05.2019. It is further asserted in the application that the said witness had given contradictory statement, with regard to the the restriction/no restriction for raising construction of building, after dismantling the existing building and that the municipal rules/by-laws are not applicable in the present case.

In the light of the same, it is submitted that the said witness has deposed contrary about any area to be left for open sky/parking on the National and State Highways. There are by-laws of the Municipal Corporation for leaving the land for parking etc. 5 feet to 10 feet, depending upon the location. However, it is asserted in the application that while



facing cross-examination in the case under consideration, the said witness had stated that shop situated on Mall Road, can be re-constructed/renovated and that there is no prohibition of the same from Municipal Corporation.

In view of the same, in order to ascertain the correctness of two versions, it was asserted that there was necessity to recall the said witness for further cross-examination and to get prove his statement, having been recorded in the case of Yashpal Kapur, so that the real facts may come before the Court.

Reply to the said application was sought. After hearing counsel for the parties, vide impugner order, copy whereof is Annexure P-5, the application, as such, was dismissed by the trial Court.

Being aggrieved, the petitioner-tenant filed the present revision petition.

It is pertinent to mention that in the application, copy whereof is Annexure P-3, there is no mention made about the provision, under which the application was filed. But anyhow, considering the provision under Order 18 Rule 17 CPC, the same is not attracted to the case in the hand, as the same relates to the exercise of inherent powers by the Court, to recall the witness for examining, cross-examining or re-examining. This Rule is strictly for the Courts' use, to clarify ambiguities in evidence or statements and on the basis thereof, no cross-examination on the answers given during the re-call, can be conducted, except with the leave of the Court.

Thus, this provision, as such, does not come to the assistance of the petitioner-tenant to seek recall of the witness for further cross-examination.

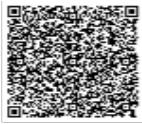
Even, the witness could be recalled by virtue of Section 151 CPC, but



however, the same also has to be considered only, while considering the facts and circumstances, spelt out, in each case. The application in question for recall has been filed, only to ascertain about the area to be left, while making extension of SSD School, for which the ground of personal necessity has been raised. In fact, from the contents of paragraph No.3 of the application, it is evident that the petitioner intend to make clarification, with regard to the contradictory statement made, as regards the extent of land to be left open in the extension of the school, which is sought to be made, after seeking eviction of the shop in question.

In fact, reference in this paragraph, also has been made that there are by-laws of the Municipal Corporation, about the extent of land to be left for parking etc., which is 5 feet to 10 feet, depending upon the location. Since the reference is made to the by-laws of the Municipal Corporation/Local Self Government, Department of Punjab Rules, therefore, the controversy is to be ascertained, on the basis of the prevalent Rules. The witness in question is a draftsman. Whatever he may have said, with regard to leaving of the open space or not, that can be ascertained in the backdrop of the prevalent by-laws and precisely, on this account, the statement of the draftsman, can be appraised in the backdrop of the prevalent municipality Rules/by-laws. Therefore, it is not required to recall the said witness, in the manner, now asserted.

In fact, the photocopy of the cross-examination of the said witness has been on record. It is evident that he was firstly cross-examined on 11.10.2018 and thereafter, his cross-examination was completed in the year



CR-5269-2022

2019. However, the application for recall has been filed in the October 2022.

Considering the factual position as stated aforesaid and also about the consideration of the by-laws/Rules of the Municipal Corporation/Local Self Government, as such, no fruitful purpose will be served by recall of the said witness.

In the light of the aforesaid observations, the revision petition is bereft of merits and the same is hereby dismissed.

March 19, 2026
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No