
(2025) 09 TH CK 0001

Telangana HC

Case No: Civil Revision Petition Nos.3236 Of 2025, Connected Wih Civil Revision Petition
Nos.3324 Of 2025

Narne Estates Private
Ltd

APPELLANT

Vs

Nellutla Kummari Shiva
Raju and others

RESPONDENT

Date of Decision: Sept. 26, 2025

Acts Referred:

- Civil Procedure Code, 1908 — Order 18 Rule 17

Hon'ble Judges: K.Sarath, J

Bench: Single Bench

Advocate: Katepalli Sai Sashi Yadav

Final Decision: Dismissed

Judgement

K.Sarath, J

1. Since both the Civil Revision Petitions are connected to each other and arising out of one and the same suit i.e. O.S.No.116 of 2014 on the file of learned Principal District Judge, Bhongir, they are heard together and being disposed of by a common order at the stage of admission itself.

2. i) C.R.P.No.3236 and 3324 of 2025 are filed against the common orders passed in I.A.No.384 of 2025 and 385 of 2025 in O.S.No.116 of 2014, whereby the petitions filed by the petitioner/plaintiff to reopen the evidence and to recall the evidence of DW1 for further cross-examination, were dismissed by its order dated 29.07.2025.

3. Heard Sri Katepalli Sai Sashi Yadav, learned Counsel for the petitioner perused the record.

4. The learned Counsel for the petitioner/plaintiff would submit that the petitioner, being the Director of plaintiff-company, filed a suit for specific performance of contract executed by the respondent/Defendant No.1 in respect of the suit schedule property, admeasuring to an extent of Ac.16.06 Guntas in Sy.Nos.561/A and 562/AA, situated at Bibinagar Village and Mandal, Yadadri-Bhuvanagiri District. In the said suit, both sides have adduced the evidence and the suit was at the stage of arguments. He would further submit that in the said suit, the defendant No.4 was examined as DW1, however, in spite of efforts made by the petitioner/plaintiff, he could not secure the presence of defendant No.1 to be examined. He would further submit that some important points could not be elicited through the cross-examination of DW1 and therefore the petitioner filed these petitions to reopen the evidence for the purpose of recalling of DW1 for further cross-examination, but the said petitions were dismissed. Being aggrieved by the same, present Civil Revision Petitions are filed.

5. The learned Counsel for the petitioner would submit that the trial Court failed to exercise jurisdiction vested in it under Order-18, Rule-17 CPC which empowers the trial Court to recall any witness for clarification or for further examination at any stage. The petitioner/plaintiff only sought to recall DW1 to put certain important questions which were left out by inadvertence, but not to introduce any new evidence. Further, no prejudice will be caused if DW1 is recalled as the interlocutory applications are filed before commencement of arguments and requested to set aside the impugned orders.

6. After hearing the learned Counsel for the petitioner/plaintiff and upon perusing the impugned order passed by the trial Court, this Court of the considered view that, the petitioner/plaintiff filed suit vide O.S.No.116/2014 on the file of Principal District Judge, Bhongir, against the respondents/Defendants for specific performance of the contract dated 23.02.1999 executed by the respondent No.1/Defendant No.1 and admittedly in the suit both sides evidence was closed and the suit is at the stage of arguments and at that stage the petitioner/plaintiff filed two interlocutory applications, to reopen the evidence for the purpose of recalling of DW1 for further cross-examination on the ground that certain aspects could not be elicited through the cross-examination of DW1. The trial Court dismissed both the applications on the ground that petitioner should have made all the possible efforts to test the witness by cross-examination when cross-examined DW1, but not at the stage of arguments and further observed that as suit is at the stage arguments and also the suit being one of the oldest matter of the year, 2014 and the prayer of the petitioner was declined.

7. The contention of the learned Counsel for the petitioner is that under Order-18, Rule-17 CPC, the Court can recall any witness for clarification or further clarification at any stage.

Order-18, Rule17, reads as follows:

“Rule-17. Court may recall and examine witness. The Court may at any stage of a suit recall any witness who has been examined and may (subject to the law of evidence for the time being in force) put such questions to him as the Court thinks fit. As per Order-18, Rule-17 of CPC, the provision is not intended to enable the parties to recall any witness for further examination. It is primarily to enable the Court to clarify any issue or doubt by recalling any witness either suo motu or on application of any party, so that the Court can itself put questions and elicit answers. The Hon^{ble} Supreme Court of India in K.K.Velusamy Vs. N.Palanisamy¹ held that the power of the Court under Order 18, Rule-17 CPC is only for clarification to enable the Court to clarify any issue or doubt, it may have in regard to evidence led by the parties by recalling any witness so that the Court itself can put questions to such witness and elicit answers. The said relevant portion of the said Judgment is as under:

“19. We may add a word of caution. The power u/s 151 or Order 18 Rule 17 of the Code is not intended to be used routinely, merely for the asking. If so used, it will defeat the very purpose of various amendments to the Code to expedite trials. But where the application is found to be bona fide and where the additional evidence, oral or documentary, will assist the court to clarify the evidence on the issues and will assist in rendering justice, and the court is satisfied that non-production earlier was for valid and sufficient reasons, the court may exercise its discretion to recall the witnesses or permit the fresh evidence. But if it does so, it should ensure that the process does not become a protracting tactic. The court should firstly award appropriate costs to the other party to compensate for the delay. Secondly the court should take up and complete the case within a fixed time schedule so that the delay is avoided. Thirdly if the application is found to be mischievous, or frivolous, or to cover up negligence or lacunae, it should be rejected with heavy costs”.

(Emphasis added)

8. Recently, the Hon^{ble} Supreme Court of India in Shubakaran Singh Vs. Abhayaraj Singh & others 2, held that the Order-18, Rule-17 of CPC is not intended to enable the parties to recall any witness for further examination. The relevant portion of the said Judgment is extracted as under:

“8. The said rule, in our opinion, makes it abundantly clear that the right to put questions to the witness recalled under Rule-17 is given only to the court and even cross-examination is not ordinarily permitted on the answers given to such questions, without the leave of the court. Under that rule therefore, a witness cannot be recalled at the instance of a party for the purpose of examining, cross examining or reexamining, and that rule is not intended to serve such purpose, and the purpose for which that rule can be invoked is the one that is indicated above”.

9. In this connection, we may refer to the following observations in Sultan Saleh Bin Omer v. Vijayachand Sirmal [AIR 1966 AP 295.], which accords with the above view: *“A close reading of this rule makes it*

obvious that the right under that Rule to put question at any stage or a suit or recall any witness for that purpose, is given to the Court. The court can put questions to the witness recalled, and no cross-examination is ordinarily allowed upon the answers to the questions put by the Judge without leaveâ€¦â€¦. It cannot therefore be said that an opportunity to a party to recall any witness for the purpose of examining cross-examining or re-examining is governed by O. 18, R. 17 CPC

â€¦â€¦â€¦â€¦

(Emphasis added)

The principle laid down by the Honâ€™ble Supreme Court in the above Judgment squarely apply to the facts of the instant case.

9. In the instant case, the petitioner wanted to recall the witness for the purpose of eliciting certain aspects, which were left out by inadvertence, which is nothing but to fill up the lacunae in the evidence. Further, the suit being of the year, 2014 and as it is at the stage of arguments, the trial Court rightly dismissed by the petitions filed by the petitioner and it does not warrant any interference by this Court.

10. Accordingly, both the C.R.Ps are dismissed as devoid of merits. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.