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**(2001) 08 P&H CK 0070**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Civil Revision No. 750 of 1997**

Hindu Khandan Mustrka

APPELLANT

Vs

Ram Sarup

RESPONDENT

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**Date of Decision :** 09-08-2001

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Order 18 Rule 17

**Citation :** (2002) 1 CivCC 87 : (2001) 4 RCR(Civil) 638

**Hon'ble Judges :** M.M. Kumar, J

**Bench :** Single Bench

**Advocate :** C.B. Goel, for the Appellant;

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## Judgement

M.M. Kumar, J.—In my last order dated August 3, 2001, it was specifically ordered that Shri Surinder Garg, Advocate, who had put in appearance on behalf of the respondent at the time of admission, be intimated of the date fixed i.e. today. As per the office report, letter to the learned counsel has been issued, despite that no one has cared to put in appearance.

2. I have heard Shri C.B. Goel, Advocate, learned counsel for the petitioner at length and perused (he record with his assistance.

3. Shri C.B. Goel, Advocate, learned counsel for the petitioner submits that under Order XVIII Rule 17 of the Code of Civil Procedure, 1908 (for short "the Code") the non-petitioner has no right to file any application for recalling any witness on the ground that when earlier Shri D.P. Gupta DW 7 had appeared he did not tell the truth. He further submits that on the basis of the statement made by Shri Rajinder Kumar DW 9 and production of unsigned rent note Ex. DW 9.35, Shri D.P. Gupta could not be recalled for examination/cross-examination as there is no provision under Order XVII Rule 17 of the Code and it would be unending process. In support of his argument, he cites Jai Bhagwan v. Lajwanti and Anr., 1978 PLJ 276.

4. I find that the case of the petitioner is squarely covered by the provisions of

Order XVIII Rule 17 of the Code as interpreted by this Court in the case of Jai Bhagwan's case (supra). Consequently, the impugned order dated 16.12.1996 passed by the Civil Judge (Jr. Division), Narwana, is quashed as the trial Court has exercised jurisdiction illegally. As a matter of fact, the jurisdiction to recall the witness at the instance of non -petitioner does not vest in the trial Court.

5. On 20.2.1997, when this revision petition was listed before this court, further proceedings before the trial Court were stayed. Thereafter, the petition was admitted on 5.8.1997 and the interim directions were allowed to continue. It was, however, ordered that the revision petition be listed with Civil Revision No. 5261 of 1996 which petition has been disposed of as infructuous by me on 3.8.2001.

6. In view of the above interim order, the parties through their counsel are directed to appear before the trial Court on 27.8.2001. As the suit is pending since the year 1992, I deem it appropriate to direct the learned trial Court to decide the case finally on or before 31.1.2002.

The revision petition stands disposed of in the above terms.