

(1968) 12 RAJ CK 0004
In the Rajasthan High Court
Case No : Civil Revision No. 318 of 1968

Pabudan Hiralal

APPELLANT

Vs

Shri Mahesh Industries and Others

RESPONDENT

Date of Decision : 20-12-1968

Acts Referred:

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

Citation : AIR 1970 Raj 59 : (1969) RLW 253

Hon'ble Judges : Jagat Narayan, J

Bench : Single Bench

Advocate : D.P. Gupta, for the Appellant; H.C. Jain, for the Respondent

Final Decision : Dismissed

Judgement

Jagat Narayan, J.—This is a revision application by the plaintiff against an order of the trial Court recalling a witness of the plaintiff as a witness of the defendant.

2. One application was made on 30-1-68 in which it was stated that Manak Chand had not brought his account books, when he made his statement and so he may be recalled for further cross-examination. No order was passed on this application and it seems that it was not pressed. Another application was made on 3-4-68 in which it was stated that if Manak Chand be not called for further cross-examination the defendants may be allowed to call his Munim or any other partner to prove his account books. On this application the Court passed an order for summoning Manak Chand on 5-4-68. On 8-5-68 another order was passed which shows that the intention of the Court was to summon Manak Chand as a witness of defendant No. 1.

3. There is no express provision in the Code for recalling a witness of the plaintiff as a witness of the defendant. There is however no prohibition against it and it has been, held in a case cited in Chitaley's Commentary on Order 18 Rule 17 that a witness of the plaintiff can be recalled as a witness of the defendant with the leave of the Court. No such permission should be granted by the Court unless

there are cogent reasons for doing so.

The trial Court has not applied its mind as to whether or not there were reasons for recalling Manak Chand. But I am satisfied that it was on account of the inadvertence of defendant No. 1 that Manak Chand was not properly cross-examined as to whether any entry about the purchase of gram by him on 16-7-67 figures in his account books. Manak Chand is being recalled with his account books only for the purpose of showing whether or not there is any entry about the purchase of gram. No further question will be put to him.

4. The revision application is accordingly dismissed without any order as to costs.