

**(2024) 12 TEL CK 1227**

**In the Telangana High Court**

**Case No :** Civil Revision Petition No.4142 & 4171 Of 2024

|                                                              |            |
|--------------------------------------------------------------|------------|
| Sardar Vallabhbhai Patel National Police Academy and another | APPELLANT  |
| Vs                                                           |            |
| Kaling Corp                                                  | RESPONDENT |

---

**Date of Decision :** 27-12-2024

**Acts Referred:**

**Citation :** (2024) 12 TEL CK 1227

**Hon'ble Judges :** Tirumala Devi Eada, J

**Bench :** Division Bench

**Advocate :** Maamu Vani, Radhive Reddy

**Final Decision :** Allowed

---

## **Judgement**

K.Sarath, J

1. Both the Civil Revision Petitions, under Article 227 of the Constitution of India, are preferred against the Common Order dated 18.10.2024 in I.A.No.304 and 305 of 2024 in COS No.15 of 2019 on the file of Special Judge for trial and disposal of Commercial Disputes, Ranga Reddy at L.B.Nagar, whereby the petitions filed by the petitioners herein under Section 151 of Code of Civil Procedure and under Order XVIII, Rule-17 read with Section 151 of Code of Civil Procedure (for short 'CPC') respectively, to reopen the evidence and recall of the PW-1 for further cross-examination, were dismissed.
2. Heard Sri V.T.Kalyan, learned Counsel, representing Sri Gadi Praveen Kumar, Deputy Solicitor General of India, learned Counsel for the petitioners.
3. The petitioners herein are defendants and the respondent herein is the plaintiff in the suit.
4. The respondent/plaintiff filed suit in COS No.15 of 2019 on the file of the Special Judge for Trial and Disposal of Commercial Disputes, Ranga Reddy at L.B.Nagar against the petitioners/defendants for recovery of money. After closing the evidence of both the sides in the said suit, the petitioners herein filed

I.A.Nos.304 and 305 of 2024 for reopening of the evidence and recalling of the PW1 for further cross-examination on the aspect of purchase of materials, which were used in SVP National Police Academy, were not as per the work order dated 6. 10.2012.

5. The respondent/plaintiff resisted the said petitions by filing counters and contended that the Interlocutory Applications were filed after examination of the DWs.1 to 5 and in order to stop the legal payments to the respondent and the petitioners have already extensively cross-examined the PW1 on all aspects. After hearing both the sides, the Trial Court dismissed both the applications. Being aggrieved by the same, present Civil Revision Petitions are filed.

6. The learned Counsel for the petitioners would submit that the Trial court ought to have allowed the applications since there was no cross-examination of the PW1 on the aspect of purchase of materials as per work order dated 06.10.2012 and the cross-examination of the PW1 was done on 26.06.2023 and

18. 07.2023 and the petitions were filed by the petitioners within the reasonable time and no prejudice would be caused to the respondent/plaintiff, if the evidence of the PW1 is reopened and requested to allow the Civil Revision Petitions.

7. In the impugned order the Trial Court observed that the PW1 was examined in chief by the learned Counsel for the respondent/plaintiff and cross-examined by the learned Counsel for the petitioners/defendants in part on 26.06.2023 and further cross-examined at length on 18.07.2023. Thereafter, the DWs.1 to 5 were examined on behalf of the petitioners/defendants on 09.09.2024 and reported no further evidence. After completion of evidence of both the sides Interlocutory Applications were filed without any sufficient reasons.

8. The Trial court further observed that the main purpose of the provision under Order XVIII, Rule-17 of CPC is only to enable the Court to clarify any doubts which may arise with regard to the evidence let in by the parties, but not intended to be examined. The said provision can be exercised by the Court either on its own motion or on an application filed by any of the party to the suit, but such power is not intended to be invoked to fill up the lacunae in the evidence which has already been recorded by the Court.

9. In similar circumstances, with regard to recall of the witness for further cross-examination after conclusion of the trial, the Hon'ble Supreme Court in Bagai Constructions, through its Proprietor Lalit

Bagai Vs. Gupta Building Material Store(2013) 14 SCC 1, held as follows:

"14. xxxx xxxx xxxx. It is further seen that during the entire trial, those documents have remained in exclusive possession of the plaintiff but for the reasons known to it, still the plaintiff has not placed these bills on record. In such circumstance, as rightly observed by the trial Court at this belated stage and that too after the conclusion of the evidence and final arguments and after reserving

the matter for pronouncement of judgment, we are of the view that the plaintiff cannot be permitted to file such applications to fill the lacunae in its pleadings and evidence led by him. As rightly observed by the trial Court, there is no acceptable reason or cause which has been shown by the plaintiff as to why these documents were not placed on record by the plaintiff during the entire trial. Unfortunately, the High Court taking note of the words "at any stage" occurring in Order XVIII Rule 17 casually set aside the order of the trial Court, allowed those applications and permitted the plaintiff to place on record certain bills and also granted permission to recall PW-1 to prove those bills. Though power under Section 151 can be exercised if ends of justice so warrant and to prevent abuse of process of the court and Court can exercise its discretion to permit reopening of evidence or recalling of witness for further examination/cross-examination after evidence led by the parties, in the light of the information as shown in the order of the trial Court, namely, those documents were very well available throughout the trial, we are of the view that even by exercise of Section 151 of CPC, the plaintiff cannot be permitted"

15. After change of various provisions by way of amendment in the CPC, it is desirable that the recording of evidence should be continuous and followed by arguments and decision thereon within a reasonable time. This Court has repeatedly held that courts should constantly endeavour to follow such a time schedule. If the same is not followed, the purpose of amending several provisions in the Code would get defeated. In fact, applications for adjournments, reopening and recalling are interim measures, could be as far as possible avoided and only in compelling and acceptable reasons, those applications are to be considered. We are satisfied that the plaintiff has filed those two applications before the trial Court in order to overcome the lacunae in the plaint, pleadings and evidence. It is not the case of the plaintiff that it was not given adequate opportunity. In fact, the materials placed show that the plaintiff has filed both the applications after more than sufficient opportunity had been granted to it to prove its case. During the entire trial, those documents have remained in exclusive possession of the plaintiff, still plaintiff has not placed those bills on record. It further shows that final arguments were heard on number of times and judgment was reserved and only thereafter, in order to improve its case, the plaintiff came forward with such an application to avoid the final judgment against it. Such course is not permissible even with the aid of Section 151 CPC".

(Emphasis added)

10. The finding of the Hon'ble Supreme Court in the above Judgment squarely apply to the facts of the instant case. The revision petitioners have not explained the sufficient reasons in the Interlocutory Applications before the Trial Court and the document mentioned in the petitions for further cross-examination is also not a new document. There is no specific reason mentioned in the affidavit for not cross-examining the PW1 with regard to the work order dated 6. 10.2012.

Therefore, the Trial Court rightly held that the petitioners have not given any reasons for reopening of evidence and for re-examination of the PW1 and not permitted to fill up the lacunae in the evidence.

11. Further, it is settled law that, the applications for reopening and recalling should as far as possible be avoided and only for compelling and acceptable reasons such applications to be considered. In the instant case, there are no compelling and acceptable reasons made out by the petitioners for reopening of evidence and recalling of the PW1 for further cross-examination.

12. In view of the above finding, there is no impropriety or illegally in the order of the Trial Court requiring interference of this Court under Article 227 of Constitution of India.

13. Accordingly, both the Civil Revision Petitions are dismissed at the admission stage itself. No order as to costs.

14. As a sequel, miscellaneous applications pending, if any shall also stand closed.