



2025:DHC:8489



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Date of Decision: 23.09.2025*

+ **CM(M) 1898/2025, CM APPL. 60601/2025 & CM APPL. 60602/2025**

M/S UNILEC ENGINEERS LTD

.....Petitioner

Through: Mr. Puneet Jaiswal, Advocate.

versus

M/S HPL ELECTRIC AND POWER LTD

.....Respondent

Through: None.

**CORAM: JUSTICE GIRISH KATHPALIA**

**ORDER (ORAL)**

1. Petitioner/defendant, defending a commercial suit for recovery of money has assailed order dated 11.09.2025 of the learned trial court whereby his application under Order XVIII Rule 17 CPC, seeking to recall and further cross-examine PW-1 was dismissed. Having heard learned counsel for petitioner/defendant, I do not find this case fit to even issue notice.

2. It appears that in the suit for recovery of Rs. 28,18,062/- towards costs of electrical goods/components supplied by the present respondent to the petitioner/defendant from time to time during the year 2016 against the bills



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with proofs of delivery, plaintiff's witness PW-1 was cross-examined by learned counsel for petitioner/defendant at length on 18.12.2023 and thereafter, further cross-examination was closed as the counsel for petitioner/defendant sought time to arrange a laptop in order to confront PW-1 with the e-mails allegedly sent by the petitioner/defendant to the respondent/plaintiff in the year 2016; the learned trial court took a view that if the counsel for petitioner/defendant wanted to confront the witness with some document with the help of laptop, he should have done arrangement in time. Further, the learned trial court held that PW-1 was already cross-examined at length, so the court did not find any ground to recall PW-1.

3. On behalf of petitioner/defendant, it is contended by learned counsel that the impugned order is not sustainable in law because the petitioner/defendant was deprived of an opportunity to effectively cross-examine PW-1 by confronting the witness with e-mails. Learned counsel for petitioner/defendant submits that the learned trial court ought to have granted him time to bring his laptop from which he would have confronted PW-1 with the e-mails in question. In response to a specific query, learned counsel for petitioner/defendant submits that in the written statement, the petitioner/defendant did not plead about the said e-mails. Learned counsel for petitioner/defendant also submits that he could not even suggest defence of the defendant in the cross-examination of PW-1, so recall ought to have been allowed. No other argument has been advanced.

4. I have examined the relevant record of the trial court, including the cross-examination of PW-1 running into three pages. It is not a case where



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the petitioner/defendant was not granted a fair opportunity to cross-examine PW-1. The only ground on which learned counsel for petitioner/defendant requested deferment of cross-examination of PW1 was that he wanted to arrange a laptop in order to confront the witness with e-mails.

5. Going by the excuse raised for deferment of cross-examination, I am convinced that it was just a ruse to somehow send the witness back, to be called again for further cross-examination. One does not need a laptop to prove e-mails or to confront the witness under cross-examination with the same. It is nobody's case that printouts of those e-mails were already filed along with the requisite certificate in accordance with law or the same were brought by the learned counsel for defendant on the fateful day. In any case, had that been so, the laptop was not even required to prove those e-mails or to confront PW-1 with those e-mails. It was clearly a frivolous excuse on the part of petitioner/defendant to somehow get the matter adjourned.

6. There is another aspect. The provision dealing with the scope of either party seeking to adduce additional evidence or recall an already examined witness existed earlier under Order XVIII Rule 17A CPC, but that provision was repealed by way of amendment of the CPC in the year 2002. The provision invoked by the petitioner/defendant is Order XVIII Rule 17 CPC, which prescribes the scope dealing with the requirement of the trial court, in the sense that under Order XVIII Rule 17 CPC, it is up to the trial court to recall any witness and put such questions as the court thinks fit. The provision under Order XVIII Rule 17 CPC cannot be invoked to empower either of the parties to further examine or further cross-examine the already



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examined witness. The provision lays down that it is only the court which would put questions to the witness. As such, it is the satisfaction of the trial court that the witness is required to be recalled to clarify on certain aspects. The provision cannot be used by either of the parties, much less on the basis of such frivolous excuse that the counsel wants to arrange a laptop in order to confront the witness with e-mails. Order XVIII Rule 17 CPC cannot be used as adversarial tool.

7. Coming to the submission of learned counsel for petitioner/defendant that he could not suggest defence of the defendant in cross-examination of PW-1, that was done or not done by learned counsel for petitioner/defendant at his peril. There was no reason for the counsel for petitioner/defendant not to continue with the cross-examination of PW-1 and extend the defence suggestions to the witness, instead of seeking deferment of cross-examination on the ground of arrangement of laptop to confront the witness with the e-mails. In any case, as discussed above, the provision under Order XVIII Rule 17 CPC, under which the application dismissed by the impugned order was filed, does not contemplate cross-examination in any manner of the recalled witness by either of the parties; as mentioned above, even if the already examined witness is recalled, it is only the trial court, which can put necessary questions to the witness. Allowing a party to further cross-examine an already cross-examined witness after recall would make the repealing of Order XVIII Rule 17A CPC redundant and would frustrate the very object behind 2002 Amendment in the CPC.

8. I am unable to find any infirmity in the impugned order, so the same



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is upheld.

9. The petition is devoid of merit and completely frivolous, so dismissed with costs of Rs. 10,000/- to be deposited by the petitioner/defendant within one week with DHCLSC. Pending applications also stand disposed of.

10. Copy of this order be sent to the learned trial court.

**GIRISH KATHPALIA  
(JUDGE)**

**SEPTEMBER 23, 2025**  
**'rs'**