

**25 CS DJ 838/2014 76593/16**  
**VIRENDER KUMAR Vs. DELHI URBAAN SHELTER**  
**IMPROVEMENT BOARD**

**05.02.2026**

**Present:** Plaintiff in person.  
Ms. Hetu, Ld. Proxy Counsel for defendant.

1. By this order I shall dispose of the application moved by the plaintiff under Order XVIII Rule 17 read with Section 151 CPC seeking recall of defendant's witness DW-1 Sh. Raju Punaji Sirsikar for the purpose of cross-examination.

2. The brief facts necessary for adjudication of the present application are that the matter was listed on 07.03.2024 for defendant's evidence. On the said date, DW-1 tendered his examination-in-chief by way of affidavit. During the examination of the witness, the counsel for the plaintiff left the court without intimation. Consequently, the witness was discharged and defendant's evidence was closed. The matter thereafter was fixed for final arguments.

3. The plaintiff has sought recall of DW-1 on the ground that the counsel for the plaintiff was held up in another court for arguments and that the copy of the affidavit of DW-1 was received by the plaintiff only on 07.03.2024. It is contended that no opportunity to cross-examine DW-1 was given and grave prejudice would be caused to the plaintiff if the witness is not recalled.

4. Per contra, the defendant has filed a detailed reply opposing the application. It is contended that the plaintiff has not approached the court with clean hands; that the counsel for the plaintiff left the court during examination of DW-1 without permission; that the plaintiff failed to cross-examine the witness

despite opportunity; and that the application has been filed after an unexplained delay of about two months. It is further argued that Order XVIII Rule 17 CPC cannot be invoked to fill up lacunae and that the application is liable to be dismissed.

5. I have heard the arguments advanced and have carefully perused the record.

6. Order XVIII Rule 17 CPC empowers the court to recall a witness at any stage of the proceedings for clarification, and such power is discretionary and to be exercised sparingly.

7. In the present case, perusal of ordersheet dated 07.03.2024 shows that during examination of the witness DW-1 , Ld. Counsel for plaintiff has left the court without intimation and on the request of plaintiff matter was even passed over till 12:00pm, however, despite passover, Ld. Counsel for plaintiff had not turned up for cross examination of DW-1 and in these circumstances, DW-1 was discharged without being cross-examined.

8. It is therefore, clear from ordersheet dated 07.03.2024 that Ld. Counsel for plaintiff has not cross examined DW-1 despite opportunity granted by court. It appears that DW-1 was not examined deliberately just to delay the matter, so that court adjourned the matter for cross examination of DW-1 on next date. The conduct of Ld. Counsel for plaintiff is reflective of dilatory tactics. Speedy justice is mandate of law. Keeping in view the above facts and circumstances, court is not in favour of granting indulgence by allowing present application for recalling DW-1 for cross examination.

Therefore the application under Order XVIII Rule 17 read with Section 151 CPC filed by the plaintiff is **dismissed**.

Application stands disposed of accordingly.

Matter be listed for final arguments on **26.02.2026**.

**(RAKESH KUMAR V)**

**DJ-04/North-West**

**Rohini Courts/Delhi**

**05.02.2026**