

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN**  
**GILGIT**

**Before:- Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.**

**Mr. Justice Javed Iqbal, Judge.**

**Civil Appeal No. 34/2017**

**In**

**CPLA. No. 68/2015**

1. Provincial Government through Chief Secretary Gilgit-Baltistan and another.

**Petitioners**

**VERSUS**

1. Techno Trade (Pvt) Ltd 27/B SJ Afghani Road University Town Peshawar through Managing Director Anwar Zaib.

**Respondent**

**PRESENT:-**

1. The Deputy Attorney General for Pakistan at Gilgit for the petitioner No. 2.
2. The Advocate General Gilgit-Baltistan alongwith Mr. Rehmat Ali Advocate-on-Record for the petitioner No.01.
3. Mr. Shoukat Ali, senior Advocate alongwith Mr. Ali Nazar Khan Advocate-on-Record on behalf of the respondent.

**DATE OF HEARING:- 24-05-2017.**

**DATE OF DETAIL JUDGMENT:-.....-08-2017.**

**JUDGEMENT**

**JAVED IQBAL, J.....** This instant petition for leave to appeal has been directed against impugned judgment dated 06-04-2015 passed by the learned Chief Court Gilgit-Baltistan in CFA. No. 42/2014, whereby the learned Chief Court Gilgit-Baltistan dismissed the CFA, filed by the petitioners/appellants vide CFA. No. 42/2014 dated 06-04-2015.

**2.** Briefly facts of the case, the respondent has filed a civil suit of recovery of Rs. 4740471.35/. before the court of senior Civil Judge Gilgit, which is still sub-judice before senior Civil Judge Gilgit. That, the petitioners/appellants filed as application before Trial Court on 10-04-2014, requesting, that at the time of recording statements of PWs before the Trial Court. PWs were not cross examined by the appellants, due to absence of District Attorney. Because this is a right of the petitioners to cross the PWs. The learned Trial Court dismissed the said application of the appellants hold that, appellants just to linger on the case. Being aggrieved by this order, the appellants filed CFA in learned District Court Gilgit on 12-06-2014. The CFA has been returned to the appellants for presentation to proper forum, due to lacks pecuniary jurisdiction on 11-09-2014.

**3.** The appellants presented the same CFA before learned Chief Court Gilgit-Baltistan. The learned Chief Court Gilgit-Baltistan vide its judgment/order No. CFA. 42 of 2014, dated 06-04-2015, dismissed the above Civil First Appeal being meritless and upheld the order dated 20-05-2014 passed by learned senior Civil Judge Gilgit. Hence this petition for leave to appeal.

**4.** The learned Advocate General contended that, impugned judgment/order, passed by learned Chief Court Gilgit-Baltistan as well as order passed by learned Trial Court are incorrect, without jurisdiction and unjustified. Which are based on conjectures, surmises and mis-understood. The learned Advocate General also contended that, the judgments/orders of two courts below are based on flimsy, arbitrary grounds. The right of cross examination of the PW's has struck out by learned lower courts. The learned Advocate General also

contended that, no right of cross examination of PW's by the petitioners was closed and the right was in continuation and existing. The learned Advocate General referred PLD 1989 L 506, 2003 YLR 1814. On the other hand, the counsel of respondent Mr. Shoukat Ali, senior Advocate vehemently opposed the arguments advanced by learned Advocate General and contended that, District Attorney on behalf of defendants was present in Court, even on 21-09-2005 when evidence were recorded, all the proceedings are in knowledge of District Attorney, at this stage the petitioners/appellants cannot call the witnesses on belated stage.

5. We minutely examined the record available on case file, impugned judgments/orders of learned Courts below, with the help of assistance by the counsel of both the parties. Petitioners/defendants after a period of approximately eight years without plausible reasons for such delay filed application to produce PW's. It is on record that, all PW's were government officers and retired. At this stage it is not possible to produce PW's. The petitioners/appellants filed the application under order 18 rule 17 Civil Procedure Code which is reproduce as under:-

**“Court may recall and examine witness.- - The Court may at any stage of a suit recall any witness who has been examined and may (subject to the law of evidence for the time being in force) put such questions to him as the Court thinks fit.”**

The above code indicate that, the right to put question at any stage of trial of suit or to recall any witness for the said purpose is given to the Court only. The Court can put questions to the witnesses recalled. The parties cannot call the witnesses to fill the lacunas of his case. Provision of this rule is meant to meet special circumstances,

there can be no warrant to recall witnesses where there is no question of any ambiguity.

6. In our considered view, it is futile service to recall the witnesses at belated stage only to fill lacunas of the case, and the judgments/orders of learned lower Courts are well reasoned, as no infirmity and illegality was pointed out by the learned Advocate General. The authorities referred by learned Advocate General have not attracted this case. These were the reasons for our short order dated 24-05-2017. Consequently, this petition for leave to appeal is converted into an appeal and hereby dismissed, and impugned order dated 06-04-2015, in CFA No. 42/2014 passed by learned Chief Court Gilgit-Baltistan is affirmed.

7. The appeal is dismissed in above terms.

**JUDGE**

**CHIEF JUDGE**

**Whether the case is Fit to be reported or Not?**