

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

**CR No.289 of 2017 (O&M).
Date of Decision: 18.01.2017.**

Gurdeep KaurPetitioner.
VERSUS
Rajinder Singh and anotherRespondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Karan Garg, Advocate for the petitioner.

SNEH PRASHAR, J.

CM-736-CII-2017

Allowed, as prayed for.

CR-289-2017 (O&M)

The petitioner is aggrieved of the order dated 13.12.2016 passed by learned Additional Civil Judge (Senior Division), Sangrur by virtue of which her evidence in rebuttal was closed by court order.

The submissions made by Mr. Karan Garg, learned counsel for the petitioner have been considered.

Learned counsel for the petitioner submits that all required steps were being taken by the petitioner to summon the witnesses to be examined by her in rebuttal evidence. It is the witnesses, who were avoiding appearance on one pretext or the other and there was no fault on part of the petitioner, yet learned trial Court abruptly closed her evidence in rebuttal by the impugned order dated 13.12.2016.

Indeed, a perusal of the impugned order shows that learned trial

Government Senior Secondary School, Khanauri for the date fixed had been received back served but he was not present. As far as the other witnesses were concerned, they had been summoned throughailable warrants which were not received back. Apparently, an official witness who had been summoned by the petitioner had been served but he was not present. In such a situation, learned trial Court ought to have adjourned the case and called the witness by issuing penal process. For non appearance of the witness, the party, who duly summoned him/her, could not be left to suffer.

At the same time, it is also observed that the petitioner was taking unnecessary dates for producing her evidence in rebuttal. Some private witnesses had been summoned by the petitioner through process of Court, who despite service did not appear and whenailable warrants were issued against them neither the petitioner produced the witnesses nor theailable warrants were received back served or otherwise. No effort appears to have been made by the petitioner to produce the private witnesses at her own responsibility.

Considering the aforesaid facts, the impugned order is set aside and the instant petition is allowed, but only one effective opportunity is given to the petitioner to produce her entire evidence in rebuttal subject to payment of Rs.3000/- as costs which shall be deposited with the Legal Aid Authority. The witnesses be produced by her at her own responsibility. In case any witness is summoned, she shall ensure that the witness is served and is present on the date fixed.

(SNEH PRASHAR)
JUDGE

18.01.2017.
jitender sharma