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

**C.R. No. 7511 of 2017
Decided on: 01.11.2017**

Bawa Singh through LR**.....Petitioner**

versus

Mohinder Kaur and others**.....Respondents****Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT****Present:** Mr. Narinder Kumar Vadehra, Advocate,
for the petitioner.

Rajbir Sehrawat, J.(Oral)

1. The present petition has been filed by the legal representative of the decree holder, who is in execution proceedings. The petitioner had challenged the order dated 19th July, 2017 whereby, although, the case has been adjourned for cross-examination of one of the witnesses produced by the petitioner, however, at the same time further evidence of the petitioner has been closed.
2. A perusal of the zimini orders placed on record of the present case shows that in the execution petition, one Sukhwinder Kaur, respondent No. 2 herein, has filed objections during the execution proceedings. The evidence of the objector was completed on 02.05.2017. The case was adjourned for 16.05.2017 for evidence of decree holder/petitioner herein. However, on that date, no evidence was produced and the case was adjourned to 24.05.2017. Thereafter, the case was adjourned to 03.07.2017. On 03.07.2017, the statement of one witness, DHW, Rani Devi was recorded and the case was adjourned for 14th July, 2017 for cross examination of Rani Devi and for further evidence. Hence, it shows

that only for two dates the decree holder could not lead her evidence. On third date, the witness has been examined by her.

3. However, before the next date i.e. 14.07.2017, an FIR was registered against the decree holder/petitioner. Therefore, she could not produce any evidence and the case was adjourned to 19.07.2017 for cross examination of Rani Devi and for further evidence of the decree holder. On 19.07.2017, an application was filed by the petitioner for adjourning the case on the ground that she is seeking anticipatory bail in the criminal case and she could not appear. However, the Court has adjourned the case for cross examination of Rani Devi and at the same time, closed the remaining evidence of the petitioner.
4. Learned counsel for the petitioner submits that once the case is being adjourned for cross examination of Rani Devi, there was no justification or necessity for closing the evidence of the petitioner till that date, at least. The petitioner could have very well led her entire evidence on the next date itself.
5. Still further, it is submitted by the counsel that only two effective opportunities were availed by the petitioner before closure of her evidence. Therefore, prayer is made for allowing her one more opportunity to lead her entire evidence.
6. Having heard the learned counsel for the petitioner, this Court finds that submissions of the learned counsel for the petitioner deserve acceptance. Since the Court had adjourned the case for cross examination of one of the witnesses produced by the petitioner, therefore, no prejudice would have been caused to anybody; had the petitioner been permitted to lead the remaining evidence on that date. No such prejudice to anybody is

discernible even from the impugned order. Hence, the trial Court should not have closed the evidence of the petitioner, at least, for that date for which it was adjourning the case, otherwise, for cross examination of witness of the petitioner herself.

7. In view of the above, the impugned order to the extent of closure of the evidence of the petitioner; is set aside. The petitioner is granted one effective opportunity to lead her entire evidence. It is made clear that the petitioner would be bound to complete her entire evidence before the Executing Court on the date next to the date already fixed now before the Executing Court. The present petition is allowed in the above said terms.

1st November, 2017
shabha

[RAJBIR SEHRAWAT]
JUDGE

Whether speaking/reasoned	-	Yes
Whether reportable	-	No