
(2018) 03 RAJ CK 0056
In the Rajasthan High Court
Case No : Civil Writ Petition No.73 of 2017

Rujdar And Ors @APPELLANT@Hash Gullu And Ors

Date of Decision : 07-03-2018

Acts Referred:

Code of Civil Procedure, 1908 — Order 7 Rule 14(3)
Constitution of India, 1950 — Article 227

Citation : (2018) 03 RAJ CK 0056

Hon'ble Judges : ALOK SHARMA, J

Bench : Single Bench

Advocate : Gajendra Singh Rathore, Shyam Kant Sharma

Final Decision : Dismissed

Judgement

The petitioners-Plaintiffs (hereinafter `the plaintiffs') are aggrieved of the order dated 16-12-2016 passed by Civil Judge and Judicial Magistrate No.1

Alwar dismissing their application under Order 7 Rules 14 (3) CPC.

Heard counsel for the parties and perused the impugned order dated 16-12-2016 whereby plaintiff's application under Order 7 Rule 14(3) CPC has

been dismissed by the trial court holding that the report of Halka Patwari dated 29-10-2014, which was sought to be taken on record of the court, had

been prepared behind the back of the defendants and in any event on the issue of possession of the suit property it was for the plaintiff to prove his

case on the basis of substantive evidence. The trial court held that aside of doubtful nature of the report of the Halka Patwari, for reason of it not

being verified/ endorsed by competent authority, it was not relevant for adjudication of the issues framed. So holding the trial court dismissed the

plaintiff's application under Order 7 Rule 14(3) CPC.

Order 7 Rule 14 provides that where a plaintiff sues upon a document or relies upon a document in his possession or power in support of his claim, he

shall enter such documents in a list, and shall produce it in court when the plaint is presented by him and shall at the same time deliver the document

and a copy thereof, to be filed with the plaint. Order 7 Rule 14(3) CPC further provides that a document which ought to be produced in court by the

plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall

not, without the leave of the court, be received in evidence on his behalf at the hearing of the suit.

It is thus apparent that a document not produced with the plaint, not included in the list could be filed in court only with the leave of the court. To grant

leave clearly lies in the discretion of the trial court. It is well settled that where a discretion has to be exercised, over all facts of the case have to be

considered and it is no right of any party to avail it. In the instant case the trial court has exercised its discretion in dismissing the plaintiff's application

under Order 7 Rule 14(3) CPC inter alia on the ground that the said document was of questionable veracity, as it was not verified by a superior

authority of the Halka Patwari prepared during pendency of the suit and behind the defendants' back to boot and not central to the adjudication of the

issue of possession which were to be adjudicated in terms of the evidence in the course of trial.

The discretion having exercised by the trial court for well detailed reasons, it warrants no interference by this court in exercise of its supervisory

jurisdiction under Article 227 of the Constitution of India.

The petition is without force. Dismissed.