

29.8.2008 Present: Mr. T.S.Chauhan, counsel for the petitioners.

Mr. R.P.Singh, counsel for the respondent.

This petition has been filed by the plaintiffs against the order passed by learned Civil Judge (Senior Division), Court No. 1, Una, on a petition under Order 17 Rule 14(3) of the Code of Civil Procedure (hereinafter referred to as the Code) for permission to produce documents at a later stage.

The plaintiffs sought permission to place on record site plan prepared on 16.1.2008 and electricity bills etc. in addition to copy of *aks latha and missal hakiyat* for the year 1972-73, 1987-1988 and jamabandi for the year 2002-2003. The contention of the plaintiffs, as usual in such applications which have been made, is that:

"That the applicants/plaintiffs intend to produce the photographs of the residential house and Gohran, site plan prepared by the draughtsman of the suit site and bills and receipts of electricity and water supply and revenue record which could not be produced earlier due to inadvertence and despite due diligence as the applicants are not conversant with the technicalities of law. Documents are attached herewith."

The application then proceeds that no harm or

prejudice will be caused to the defendant if the documents are taken on record and allowed to be proved in accordance with law.

To say the least about the application, it does not specify the exact ground or detail the facts which prevented the petitioners from producing these documents on record at an earlier stage. The learned trial Court rightly notices that the suit was instituted in 1999 and the case of the plaintiffs was listed for evidence on 12.4.2006 when an application under Order 20 Rule 9 of the Code was filed which was dismissed. When the case was again listed for evidence on 23.11.2006, no evidence was produced. It is at this stage that the documents are being produced in evidence.

These facts as rightly noticed by the learned trial Court were sufficient to disentitle the plaintiffs from claiming the advantage of Order 7 Rule 14 (3) of the Code. If nothing else, the persistent conduct of the plaintiffs -petitioners shows that their plea that they are not conversant with the technicalities of law cannot be believed. Rather, plaintiffs are persons who can manipulate the process of law at their whim. The provision even if liberally construed,

cannot be invoked to aid such persons. How and under what circumstances, the inadvertence occurred or why documents are being filed at this late stage, is not clear. Rather, as noticed by me, their conduct is culpable.

Having considered this, the only reason why this application can be allowed is that justice should be tempered with mercy. At the same time, no litigant should be allowed to form an opinion that orders of the trial Court are not meant to be obeyed. On the fervent plea of learned counsel for the respondent, I allow this petition only as an exception. Accordingly application under Order 7 Rule 14(3) of the Code is deemed to have been allowed subject to the petitioners paying Rs.5500/- as costs to the respondent. Such costs shall be paid on the first date of appearance before the learned trial Court on 1.1.2008. It is clarified that in case costs are not paid, the order under challenge in these proceedings shall revive and this petition will be deemed to have been dismissed. Needless to add, that since the plaintiffs have been granted an opportunity to place documents on record, the defendant will be granted an opportunity to rebut whatever

documents/ further material has been placed on record by the plaintiffs. This petition is disposed of with these directions. Records, if received, be sent back immediately. Order dated 2.5.2008 staying further proceedings is vacated. Parties shall appear before the trial Court on 1.10.2008.

August 29, 2008 (PC). (Dev Darshan Sud), J.