

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

**OMP No. 1630 of 2025 in
Civil Suit No. 4084 of 2013
Reserved on: 14.07.2026
Decided on: 10.08.2026
Date of uploading on website:
10.08.2026**

Bahar Murtaza Fazal Ali & Ors.

....Applicants/plaintiffs

Versus

Rohini Wahi @ Roohani

...Non-applicant/defendant

Coram

The Hon'ble Mr. Justice Sushil Kukreja, Judge.

Whether approved for reporting?¹

For the applicants : Mr. Udit Shaurya Kaushik and
Mr. Rajat Awasthy, Advocates,
vice Mr. Nitin Thakur, Advocate,
for plaintiff No. 1(d).

Ms. K.B. Upadhya, Ms.
Kalpna and Ms. Anu Tuli Azta,
Advocates, for applicants/
plaintiffs No. 2 & 3.

For the non-applicant: Mr. Rajnish Maniktala, Senior
Advocate with Mr. Dinkar
Bhaskar, Advocate.

Sushil Kukreja, Judge

This order shall dispose of an application filed by applicants/plaintiffs No. 2 & 3 under Order VII, Rule 14 of the Code of Civil Procedure for production of charge sheet No. 1, dated 21.01.2021 in FIR No. 01/2014, dated 03.01.2014, registered at Police Station EOW, New Delhi, under Sections 420, 467, 468, 471, 120-B and 34 of the Indian Penal Code (for short "IPC").

2. It has been averred in the application that plaintiffs filed the present suit for possession, declaration and permanent and mandatory injunction. It is submitted that an FIR No. 01/2014, dated 03.01.2014 was registered on the complaint of the plaintiffs at PS-EOW, New Delhi, under Sections 420, 467, 468, 471, 120-B and 34 of IPC. During investigation the FSL report/opinion has been obtained in respect of Will dated 14.04.2013 and as per the FSL report, the said Will is forged and fabricated. When the plaintiffs challenged the Will in question, the defendant produced alleged *Nikahnama*, dated 20.02.2010, which has also been found to be forged and fabricated during investigation, as the Maulvi, who allegedly performed the *Nikah* has also given his

statement under Section 164 Cr. P.C. that he did not perform any such *nikah*. After the conclusion of inquiry and investigation, a detailed charge sheet No. 01, dated 21.01.2021 has been filed before the learned trial Court. With these averments, it has been prayed that since evidence of the plaintiffs has not yet commenced, charge sheet No. 1, dated 21.01.2021 in FIR No. 01/2014, dated 03.01.2014, registered at Police Station EOW, District EOW, New Delhi, under Sections 420, 467, 468, 471, 120-B and 34 of CPC be taken on record, being necessary and essential document for effective disposal of the present suit.

3. Reply to the application has been filed on behalf of the non-applicant/defendant, wherein, it has been stated that trial has already commenced after framing of issues. It has been further stated that the document, sought to be produced by the applicants, was well within their knowledge, as such, there is a legal bar for the production of said document after the beginning of the trial. Hence, prayer for dismissal of the application has been made.

4. In rejoinder, it has been averred that the document in question came into existence only on 21.01.2021 and the said date is subsequent to the institution of the suit in the year 2013, as also to the framing of issues on 14.07.2016. It has also been averred that mere framing of issues does not amount to commencement of trial, as trial commences with the recording of evidence. However, the evidence of the plaintiffs has admittedly not yet commenced.

5. I have heard learned Counsel for the applicants-plaintiffs, learned Senior Counsel for the non-applicant/defendant and also gone through the material available on record.

6. A plain reading of Order 7 Rule 14 CPC makes it clear that plaintiff has to present the relevant documents with the plaint. Subsequently, such documents cannot be presented without the leave of the court. The provision thus creates a bar on production of additional documents if the same have not been mentioned in the list of documents annexed to the plaint and produced at the time of filing the same, unless the leave of the court is sought. In any event,

under order 7 Rule 14 sub-rule (3) CPC a new document can certainly be produced on behalf of plaintiff at the hearing of suit, but the same has to be done with leave of the Court.

7. The Hon'ble Supreme Court in ***Sugandhi (dead) By Legal Representatives & another vs. P. Rajkumar represented by his Power Agent Imam Oli, (2020) 10 SCC 706***, held that procedural and technical hurdles shall not be allowed to come in the way of the Court while doing substantial justice. The relevant portion of the aforesaid judgment reads as under:

"9. It is often said that procedure is the handmaid of justice. Procedural and technical hurdles shall not be allowed to come in the way of the court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary party, courts must lean towards doing substantial justice rather than relying upon procedural and technical violation. We should not forget the fact that litigation is nothing but a journey towards truth which is the foundation of justice and the court is required to take appropriate steps to thrash out the underlying truth in every dispute. Therefore, the court should take a lenient view when an application is made for production of the documents under subrule (3)."

8. In the instant case, admittedly the suit was instituted by the plaintiffs in the year, 2013 and the documents in question came into existence only on

21.01.2021. Moreover, the evidence in the case has still not commenced and no prejudice is going to be caused to the defendant if the documents are ordered to be placed on record. Therefore, in view of the facts and circumstances of the present case, the present application is allowed and the documents, as mentioned in the application are ordered to be placed on record. However, the same shall be proved by the plaintiffs in accordance with law.

The application stands disposed of.

(Sushil Kukreja)
Judge

10th August, 2026
(raman)