IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No. : 465 of 2026
Decided on : 04.11.2026

Surender Singh ...Petitioner

Versus

Inder Singh ...Respondent

Coram

The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?[1]

For the petitioner	:	Mr. Virender Chauhan, Advocate, vice Mr. Surinder Saklani, Advocate, for the petitioner.
For the respondent	:	Mr. Sunny Dhatwalia, Advocate.

Virender Singh, Judge (Oral)

Petitioner-Surender Singh has filed the present petition under Article 227 of the Constitution of India, against the order dated 23.06.2026, passed by the Court of learned Senior Civil Judge, Court No. 1 Paonta Sahib, District Sirmaur, H.P. (hereinafter referred to as 'the learned trial Court'), in application No. 1/2026, filed in Civil Suit No. 1/2020, titled as "Surender Singh Vs Inder Singh".

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[1] *Whether Reporters of local papers may be allowed to see the judgment? Yes.*

2. By way of order dated 23.06.2026, the learned trial Court, has dismissed the application under Order 7 Rule 14(3) of CPC read with Section 151 of CPC, moved by the present petitioner.

3. For the sake of convenience, parties to the present *lis,* are, hereinafter referred to, in the same manner, as were, referred to, by the learned trial Court.

4. Necessary facts, leading to the filing of the present petition before this Court, as borne out from the documents annexed with the petition, may be summed up, as under:-

4.1 Plaintiff-Surender Singh has filed a suit for possession, on the basis of title, against the defendant. The said suit has been filed by the plaintiff, on the ground that he, along with other co-sharers, was co-owner in joint possession of the lands comprised in Khasra No. 56, 74, 188, 395/122 and 291, situated in Mauza Chandni, Tehsil Kamroou, District Sirmour, H.P. The co-owners, in the year 2003, initiated the partition proceedings of the joint land and in the said partition the land of Khasra No. 395/122/13 along with other lands was allotted to the plaintiff (hereinafter referred to as 'the suit land').

4.2 After the culmination of the partition proceedings, the plaintiff applied for warrant of possession and the possession of the suit land was handed over and delivered to the plaintiff and khasra number of the suit land, has now been converted into khasra No. 581/395/122, measuring 02-14 bighas. The defendant is stated to be having no right, title and interest over the suit land, whereas, in the month of November, 2015, he made attempt to occupy the suit land, to the extent of 0-07 bigha and he forcibly occupied the said area. As such, relief of possession has been sought.

5. When put to notice, the suit has been contested by pleading that the suit land was allotted to the plaintiff in the partition proceedings and he is owner of part of land in khasra No.395/122/13, except land measuring 00-07-00 bighas, comprised in Khasra No. 581/395/122/1. The possession of the suit land was not delivered to him. The suit has further been contested by taking the plea of adverse possession. Other contents have been controverted.

6. Thereafter, replication was filed and the issues were framed by the learned trial Court. When the case was

listed for plaintiff's evidence, the application under Order 7 Rule 14(3) read with Section 151 CPC, has been filed, with a prayer to permit the plaintiff to place on record the certified copy of the demarcation report, in case No. 150/2014, dated 27.11.2014.

7. The said application has been contested by the defendant, by filing reply, taking preliminary objections that the application is not maintainable; no demarcation was ever conducted in the year 2014; and the application has been filed at a belated stage. Other contents of the application, have been denied.

8. The learned trial Court, vide order dated 23.06.2026, has dismissed the application.

9. The said order has been assailed before this Court, by way of present petition.

10. Heard.

11. The plaintiff has filed the application, under Order 7 Rule 14(3) read with Section 151 CPC. The said provisions, are reproduced, as under:-

> *"**14. Production of document on which plaintiff sues or relies**:-*
> *XXXX XXXX XXXX*
> *(3) 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."

12. The application for production of the documents has been dismissed by the learned trial Court, mainly on the ground that there is delay in filing the application, after the institution of the suit.

13. The claim of the plaintiff in the present case has been controverted by the defendant by taking the plea of adverse possession. The plea of adverse possession is always available against the true owner and once, the plea of adverse possession has been taken, then equity goes against such party.

14. By way of the application, indulgence of the learned trial Court has been sought to permit him to produce the demarcation report, in case bearing No. 150/2014, and it has specifically been averred in the application that the defendant is claiming his possession over the suit land, for the last more than 40 to 50 years.

15. Merely, because the plaintiff has taken six adjournments for examining his witnesses does not preclude him from producing the document, which, to the considering opinion of this Court, will go to the very root of the case.

16. In the absence of any averments in the reply, about the object, which the plaintiff is going to achieve, in not producing the documents, the plaintiff cannot be declined the relief, for which, he is otherwise entitled to.

17. Considering the low legal literacy of the Indian masses, such a default is insignificant. When the legislature in its wisdom has not mandated to fulfill certain conditions before permitting a party to produce documents, then the same cannot be imposed upon the plaintiff, merely on the ground of delay in moving the application. Even for the delay, other party can be compensated by way of cost.

18. Considering the true import of the procedural law, opportunity should have been afforded to the parties to produce the documents, so that the matter could be decided, on merits.

19. In other words, it can be said that every litigant ought to have afforded an opportunity to produce the documents, so that the matter could be decided on merits, without the same being scuttled on mere technicalities or default, unless the technicalities or default, are so predominant that they overshadow the merits of the case.

The veracity, as well as, the authenticity of the demarcation report can be controverted by the defendant, as and when, the same would be placed on record.

20. So far as the decision of the Coordinate Bench of this Court in **CMPMO No. 109 of 2025,** titled as **Mukhtya Singh Vs Gyan Singh & Ors.** decided on **05.08.2025**, is concerned, with due respect to the law laid down in the said case, the lis in the said case was listed for final arguments, whereas, in the present case, although, the trial has commenced, but the evidence of plaintiff has not yet been recorded.

21. Considering all these facts, the order under challenge, does not stand in the judicial scrutiny by this Court. The same is accordingly set aside. Consequently, the application, under Order 7 Rule 14(3), read with Section 151 CPC, is allowed, subject to cost of Rs. 1,000/-.

22. With these observations, the present petition is allowed and the parties to the lis, are directed to put appearance before the learned trial Court on 04.12.2026, at 10:00 am.

23. Pending application(s), if any, shall also stand disposed of.

(Virender Singh)
Judge

04th November, 2026
(*Pramod Kumar*)