

**IN THE HIGH COURT OF HIMACHAL PRADESH AT  
SHIMLA**

**OMP No. 899 of 2025 in Civil  
Suit No. 27 of 2016**

**Reserved on: 17.06.2026  
Date of decision: 06.07.2026  
Date of uploading on website:  
06.07.2026**

---

M/s Regent Energy Limited

.....Applicant/plaintiff.

Versus

The New India Assurance Company Limited & another

.....Non-applicants/defendants.

---

*Coram*

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

<sup>1</sup> *Whether approved for reporting? Yes.*

---

For the applicant:

Mr. Ajay Vaidya, Advocate.

For non-applicants:

Mr. B.M. Chauhan, Senior  
Advocate, with Ms. Kamakshi  
Tarlokta, Advocate.

---

**Sushil Kukreja, Judge.**

The instant application has been preferred by the applicant (plaintiff) under Order 7, Rule 14(3) read with Section 151 of Code of Civil Procedure (CPC) seeking permission to place on record additional documents and prove them in accordance with law.

2. The applicant averred that he has filed the instant

---

<sup>1</sup> *Whether reporters of Local Papers may be allowed to see the judgment?*

suit against the defendant for recovery of Rs.1,82,11,169/- which includes principal amount of Rs.1,32,00,250/-, and damages of Rs.50,10,619/- on account of the loss suffered by the applicant during the period of insurance by a peril insured by the insurance policy, after having reduced the partial amount of the claim, being 78,00,692/- which was received from the non-applicant (defendant). As per the applicant, there is no dispute in respect of existence of insurance cover or admissibility of the claim under the terms of the insurance policy and the dispute relates only to the extent of quantum of less amount arising from unfair and unreasonable stand taken by the non-applicant. The dispute mainly relates to indemnity period and period of interruption and wrongful twist given by the defendants and the surveyor.

2(a). The applicant contended that the instant suit is based on certain documents and the applicant is seeking leave of this Court to place on record certain relevant and necessary documents, which includes the correspondence exchanged with the Surveyor, day-wise and monthly production data with auxiliary consumption and transmission loss(es) for the period from 01.04.2011 to 31.10.2013, Joint Meter Reading Reports (JMRs) and Energy Bills from April,

2011 to October, 2013, data for working out the average percentage of transmission losses, month-wise detail of energy/electricity generated by D.G Set for the year 2011 to 2013, water flow discharge for the period w.e.f. 2011 to 2013, copy of power purchase agreement executed between HPSEBL and revised claim form, details to invoices raised by the applicant for unit of energy generated from Hydel Power Project of the applicant and payment received from HPSEB for the period February, 2013 to October, 2013, bank statements in proof of payment received from HPSEB for the period February, 2012 to October, 2013 and documents for claim for Rs.24,85,857/- towards additional expenditure incurred to minimize the loss, which were provided to the surveyor to support the applicants' claim for proving that the generation of energy was reduced during the period when the generating plant of the applicant remained affected due to land slide and which was covered by the indemnity period as per the insurance policy till 31.10.2013, i.e., the date when the normal production took place.

2(b). The applicant also averred that the aforesaid documents could not be produced earlier, as the file containing the correspondence with the Surveyor and

documents submitted to him was lost and not traceable. The file was retrieved recently. As per the applicant, it was advised that as the file had been lost and since all the documents were submitted to the Surveyor, during his survey and claim verification process, the non-applicants would place the same on record when they file the survey report. M/s S. Soni & Company, Surveyor, had checked, verified, referred and commented upon the relevant data and records in the Survey Report and Survey Report had various enclosures, but the non-applicants have filed only the survey report without its enclosures, though they were supposed to file the complete Survey Report. Thus, the additional documents are not entirely new, but are missing components of the Survey Report. The non-applicants themselves admit that the foundational facts have already been examined and relied upon by the Surveyor, therefore, possibility of any manufacturing of records is completely ruled-out. The proposed additional documents do not set up a new case contrary to what has already been pleaded by the applicant.

2(c). It is averred by the applicant that the non-applicants too had filed certain documents under Order 8, Rule 1(a)(iii) CPC after the closure of the evidence,

therefore, the non-applicants themselves availed similar judicial discretion during the pendency of the instant suit vide order dated 02.05.2025 passed by this Court.

2(d). The applicant also averred that if the non-applicant had filed enclosures to the Survey Report and data, as verified by the Surveyor, in terms of Section 106 of the Evidence act, 1872, then there was no necessity for the applicant to file the additional documents, for which applicant is seeking leave of this Court. Lastly, the applicant prayed that his application be allowed and he be permitted to place on record the additional documents, enumerated above, and prove the same in accordance with law.

3. The non-applicants filed reply to the application, wherein they took preliminary objection of maintainability of the application and on merits it is averred that nothing is due and payable to the applicant and the claim of the applicant was denied in toto. The non-applicant specifically denied that they are liable to pay an amount of Rs.1,82,11,169/-. It is further averred that whatever loss suffered by the applicant has been duly settled and paid as per the terms and conditions of the insurance policy and full and final payment of Rs.78,00,692/- under the head-Fire Loss of Profit

Insurance Policy, which is also termed as Business Interruption (Fire) Insurance Policy has been made to the applicant. It is denied that the non-applicants and surveyor had given a wrong twist and in fact the applicant had started generating power by constructing new "silt excluder well" which was a desilting unit, thus the claim of the applicant that the work was started without the silting unit is false. It is also averred that the idea behind the construction of temporary arrangement for power generation was solely of the applicant without any pressure or insistence of the non-applicants. The non-applicants allowed huge expenses of Rs.75,21,525/- only for construction of this so called temporary arrangement with a view to mitigate its liability under the fire loss of profit insurance policy. As per the non-applicants, it was not their fault if the temporary arrangement, as opted by the applicant, for reinstatement did not meet his expectations.

3(a). It was averred by the non-applicants that Surveyor M/s S-Soni & Company had rightly and correctly considered the interruption period from 13.02.2013 to 14.05.2013, i.e., 91 days and these 91 days were rightly considered as indemnity period, as against 261 days, which were wrongfully claimed by the applicant. The non-

applicants denied that the plant resumed normal running capacity w.e.f. 01.11.2013 and the business remained affected from 12.02.2013 to 31.10.2013, i.e., 261 days, due to alleged absence of the de-silting arrangements.

3(b). As per the non-applicants, whatever was payable to the applicant had been duly paid to him, as per the assessment made by the Surveyor and as per the terms and conditions of the insurance policy. The alleged calculations made by the applicant are totally false and unsustainable. It is denied that there were mistakes in the Survey Report and it is also denied that the applicant had given any comparison of power generation data for two years, i.e., 2012 and 2013.

3(c). It is averred in the reply that the applicant instead of simply seeking to produce the documents, is effectively using this procedural gateway to provide extrinsic explanations for pre-existing documents and evidence, which were already on record. As per the non-applicants, Surveyor M/s Soni & Company had rightly considered the interruption period from 13.02.2013 to 14.05.2013 for 91 days and had made the assessment, as per the terms and conditions of the insurance policy, as per the IRDAI Regulations, 2015.

3(d). The non-applicants averred that the documents,

which are sought to be produced by way of the instant application, were well within the knowledge, power and possession of the applicant much before the filing of the suit. The instant application, is nothing but only an attempt to fill up the lacunae and the applicant intends to produce on record voluminous documents, which were already in his possession and knowledge, but he failed to produce the same while filing the suit.

3(e). The non-applicants denied that the documents, which are not intended to produced, were lost and not traceable. As per the non-applicants, the reasons stated by the applicant for not producing the documents at the time of the filing of the suit are false, concocted and highly unbelievable. The non-applicants averred that they had filed an application under Order 8, Rule 1(a)(iii) for placing on record general regulations qua the consequential loss (Fire Insurance) (Business Interruption) Policy, which was not disputed by either of the parties to the suit, as both the parties were relying upon the same. Lastly, the non-applicants prayed for dismissal of the application.

4. The applicant filed rejoinder to the reply filed by the non-applicants, wherein it reiterated the averments made

in the application and refuted the stand taken by the non-applicants.

5. The learned counsel for the applicant contended that the documents, which are sought to be produced, could not be produced earlier as the file containing the documents in question was lost and was not traceable and the applicant has only been able to retrieve the relevant file recently. He further contended that these documents are necessary to determine the real controversy between the parties and by taking on record these documents, no prejudice will be caused to the defendant in any manner. In support of his case, the learned counsel for the applicant has placed reliance on the following judicial pronouncements:

1. ***Sugandhi (dead) By Legal Representatives & another vs. P. Rajkumar represented by his Power Agent Imam Oli, (2020) 10 SCC 706.***
2. ***Punit Agrawal vs. Murarilal & others, (2021) 2 CivCC 143 High Court of Madhya Pradesh at Gwalior;***
3. ***Smt. Usha Kiran Saxena vs. Amit Maheshwari & others, Misc. Petition No. 5657 of 2023, decided on 08.01.2025, by High Court of Madhya Pradesh at Gwalior;***
4. ***Chitrakala Fal Dessai vs. Balu Marathe alias Mane, 2006 (6) Mh.L.J 427;***
5. ***Pradeep Bailey vs. Gilma Daniel, CM(M) 1506/2023 & CM APPL. 47944/2023 STAY, decided on 18.06.2025, by High Court of Delhi at New Delhi; &***
6. ***Levaku Pedda Reddamma & others vs. Gottumukkala Venkata Subbamma & another, Civil Appeal No. 4096 of 2022 (@ SLP© No. 7452/2022), decided on 17.05.2022, by Hon'ble the Supreme Court of India.***

6. Conversely, the learned Senior Counsel for the non-applicants contended that the applicant had complete and ample opportunity to file the documents in question at the time of the institution of the suit and the failure to produce these documents, which were well within the knowledge of the applicant and also within its possession, constitutes a waiver of applicant's right and by permitting the documents in question at this juncture to be received in evidence would cause serious prejudice to the non-applicants/defendants.

7. I have considered the rival submissions made by learned Counsel/Senior Counsel for the parties and also perused the material on record.

8. Admittedly, the evidence of the plaintiff was closed on 23.02.2022 and the evidence of the defendants was closed on 30.12.2024. The case was partly heard on 16.06.2025 and it is at this stage that the instant application under Order VII Rule 14 of CPC has been filed by the applicant (plaintiff), seeking to place on record additional documents, the details of which are as under:

- “1. Correspondence exchanged with the Surveyor, day-wise and monthly production data with auxiliary consumption and transmission losses for the period from 01.04.2011 to 31.10.2012;

2. Joint Meter Reading Reports (JMR) and energy Bills from April 2011 to October 2013;
3. Date for working out the average percentage of transmission losses;
4. month-wise detail of energy/electricity generated by D.G. Set for the year 2011 to 2013;
5. water flow discharge for the period 2011 to 2013;
6. copy of power purchase agreement executed between HPSEBL and applicant/plaintiff;
7. revised claim form;
8. details of invoices raised by the applicant/plaintiff for unit of energy generated from Hydel Power Project of the applicant and payment received from HPSEB for the period February, 2013 to October 2013;
9. bank statements in proof of payment received from HPSEB for the period February 2012 to October 2013; &
10. documents for claim for Rs.24,85,857/- towards additional expenditure incurred to minimize the loss.”

9. Before dealing with the rival submissions, it is apposite to refer Order 7 Rule 14 CPC. This provision mandates that if plaintiff relies on a document in their suit, he must produce it in court and file it with the plaint. Order 7

Rule 14 CPC reads as under:-

***"Rule 14: Production of document on which plaintiff sues or relies.-***

***(1) Where a plaintiff sues upon a document or relies upon 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.***

***(2) Where any such document is not in the possession or power of the plaintiff, he shall, wherever possible, state in whose possession or power it is.***

***(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.***

***(4) Nothing in this rule shall apply to document produced for the cross-examination of the plaintiffs witnesses, or handed over to a witness merely to refresh his memory."***

10. 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. It

is not that the plaintiff has a legal vested right to file a document at a belated stage. The said provision gives a discretionary power to the Court, which needless to say has to be exercised in a reasonable and legal manner. In fact, this power has to be exercised sparingly and for some overpowering reason and not as a matter of routine.

11. 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 the discretion conferred upon the court to grant such leave to the party to produce the documents is to be exercised judiciously. The relevant portion of the aforesaid judgement reads as under:

*"8. Sub-rule (3), as quoted above, provides a second opportunity to the defendant to produce the documents which ought to have been produced in the court along with the written statement, with the leave of the Court. the discretion conferred upon the court to grant such leave is to be exercised judiciously. While there is no straitjacket formula, this leave can be granted by the court on a good cause being shown by the defendant."*

12. The Hon'ble Supreme Court in ***Bagai Construction through its Proprietor Lalit Bagai vs. Gupta Building Material Store, (2013) 14 SCC 1***, held as under:

*"14. The perusal of the materials placed by the plaintiff which are intended to be marked as bills have already been mentioned by the plaintiff in its statement of account but the original bills have not been placed on record by the plaintiff till the date of filing of such application. It is further seen that during the entire trial,*

*those documents have remained in exclusive possession of the plaintiff but for the reasons known to it, still the plaintiff has not placed these bills on record. In such circumstances, as rightly observed by the trial court at this belated stage and that too after the conclusion of the evidence and final arguments and after reserving the matter for pronouncement of the judgment, we are of the view that the plaintiff cannot be permitted to file such applications to fill the lacunae in its pleadings and evidence led by him. As rightly observed by the trial Court, there is no acceptable reason or cause which has been shown by the plaintiff as to why these documents were not placed on record by the plaintiff during the entire trial. Unfortunately, the High Court taking note of the words "at any stage" occurring in order 18 Rule 17 casually set aside the order of the trial court, allowed those applications and permitted the plaintiff to place on record certain bills and also granted permission to recall PW 1 to prove those bills. Though power under Section 151 can be exercised if ends of justice so warrant and to prevent abuse of process of court and court can exercise its discretion to permit reopening of evidence or recalling of witness for further examination/cross-examination after evidence led by the parties, in the light of the information as shown in the order of the trial court, namely, those that even by exercise of Section 151 CPC, the plaintiff cannot be permitted.*

15. *After change of various provisions by way of amendment in CPC, it is desirable that the recording of evidence should be continuous and followed by arguments and decision thereon within a reasonable time. This Court has repeatedly held that courts should constantly endeavour to follow such a time schedule. If the same is not followed, the purpose of amending several provisions in the Code would get defeated. In fact, applications for adjournments, reopening and recalling are interim measures, could be as far as possible avoided and only in compelling and acceptable reasons, those applications are to be considered. We are satisfied that the plaintiff has filed those two applications before the trial court in order to overcome the lacunae in the plaint, pleadings and evidence. It is not the case of the plaintiff that it was not given adequate opportunity. In fact, the materials placed show that the plaintiff has filed both the applications after more than sufficient opportunity had been granted to it to prove its case. During the entire trial, those documents have remained in exclusive possession of the plaintiff, still the plaintiff has not placed those bills on record. It further shows that final arguments were heard on a number of times and the judgment was reserved and only thereafter, in order to improve its case, the plaintiff came forward with such an application to avoid the final judgment against it. Such course is not permissible even with the aid of Section 151 CPC."*

13. Thus, in view of the aforesaid authoritative pronouncement of law by the Hon'ble Apex Court, the discretion conferred upon the court to grant leave to produce the documents at the belated stage is to be exercised judiciously and this leave can be granted by the court only on a good cause being shown by the party seeking to produce the documents. In the present case, on perusal of application filed by plaintiffs under Order 7 Rule 14 CPC, the only reason given for filing of these documents at this belated stage was on account of the fact that the file containing the correspondence with the Surveyor and the documents submitted to him was lost and was not traceable and the applicant was able to retrieve the relevant file recently, which was tagged below with other file. Thus, the perusal of the averments made in the application show that the documents, which are now sought to be produced by the applicant, were well within the knowledge of the applicant as well as in its power and possession. In the opinion of this Court, permitting the production of these documents at this belated stage would tantamount to ordering a *de novo* trial, which is not permissible at this stage. It appears that the application has been filed by the plaintiff with *mala fide* intention in order

to delay the disposal of suit and a deliberate attempt to rectify its own lapses in not proving its case in accordance with law. Consequently, it is not open to the plaintiff to now contend in the present application that the documents could not be filed initially as the file containing the documents in question was lost and was not traceable. The applicant has failed to provide any plausible reason for non-production of these documents at the appropriate time and this omission demonstrates a profound lack of due diligence on the part of the applicant. It is settled position that all the parties have to produce all documents in their power and possession before settlement/framing of issues. Order 13 Rule 1 CPC is very clear and categorical in this regard. To grant leave to, and permit the plaintiff to file and lead in evidence additional documents at this stage would mean that the defendants would be put to serious prejudice and would contravene the principles of fair procedure and timely administration of justice. Had the documents now sought to be produced, been produced at the relevant time, i.e. at the stage of filing of the suit, or at least at the time when the issues were framed or immediately thereafter, the defendants would have had the occasion to deal with the same by making

appropriate pleadings and filing its own documents to counter the reliance placed by the plaintiff on the documents in question. By withholding substantial number of documents and their subsequent introduction at a belated stage, particularly after the closure of the evidence of both the parties and during final arguments, is a clearcut case of abuse of process of law. Consequently, the case law cited by the plaintiff is clearly inapplicable to the facts of the present case.

14. The progress of the suit cannot be interdicted on account of the blatant casual approach of the plaintiff. The plaintiff has not given any plausible explanation and shown a good cause for not filing the said documents at the earlier stage of the proceedings. The plaintiff has been unable to show the exercise of any diligence which might persuade this Court to grant such permission to take on record substantial volume of documents at this stage when the case has been fixed for arguments.

15. In view of what has been discussed hereinabove, the instant application, which sans merits, deserves dismissal and is accordingly dismissed.

**( Sushil Kukreja )**  
**Judge**

**6<sup>th</sup> July, 2026**  
*(virender)*