extended in any way further as if by his purchase he stood for all purposes exactly in the shoes of his vendor. Therefore the decree of the trial Court must be amended by striking out that portion which allows Rs. 63 for past profits. The appellant will get his costs in proportion to his success. The rest of the appeal is dismissed with costs. Cross-objections dismissed with costs.

Decree modified.

J. G. R.

APPELLATE CIVIL.

Before Sir Norman Macleod, Kt., Chief Justice, and Mr. Justice Heaton.

1919.

December 11.

GANGADHAR MAHADEV MIRASHI AND OTHERS (ORIGINAL PLAINTIFFS) APPELLANTS *v.* KRISHNAJI VISHRAM NADKARNI AND OTHERS (ORIGINAL DEFENDANTS), RESPONDENTS[*].

Civil Procedure Code (Act V of 1908), Order VII, Rules 14, 18—Documents relied on by plaintiff should be produced in Court along with the plaint—Practice and Procedure.

It is desirable that a party who sues upon a certain document should produce it at the time he files the plaint, and not spring it upon the opposite party a considerable time after when the suit comes on for hearing.

SECOND appeal from the decision of T. R. Kotwal, Assistant Judge at Ratnagiri, confirming the decree passed by R. K. Bal, Second Class Subordinate Judge at Malvan.

Suit to recover possession of property.

One Hari was the owner of the property in question. He devised it by his will to the plaintiffs. Disputes arose between Hari's widow and the plaintiffs about the property, which were settled by an award.

[*] Second Appeal No. 104 of 1918.

1919.

GANGADHAR MAHADEV v. KRISHNAJI VISHRAM.

The plaintiffs filed the present suit in 1914 to recover possession of the property from the defendants who claimed the property as their own. They did not produce the will and the award either with the plaint or at the time the issues were settled. The award was not produced at all. A day before the judgment was delivered, the will was produced in Court, but the Court declined to admit it into evidence and dismissed the suit on the 10th February 1916.

This decree was, on appeal, confirmed by the Assistant Judge.

The plaintiffs appealed to the High Court.

K. N. Koyajee, for the appellants :—The lower Courts ought to have admitted the will, the award and other documents of the appellants, they being mostly registered documents and certified copies of decrees and survey records, the genuineness of which was not open to doubt. The lower Courts also erred in stopping oral evidence : see *Ranchhod* v. *The Secretary of State for India*[1].

[MACLEOD, C. J. :—Why should not the documents have been admitted ?]

A. G. Desai, for the respondents :—The documents were put in at a very late stage, just a day before the judgment was delivered. The respondents had no opportunity to inspect the documents or to gather any information with regard to them, and the lower Courts exercised their discretion properly in not allowing further time.

MACLEOD, C. J. :—The plaintiffs sued to recover possession of the plaint property. They relied in the plaint as the basis of their title on a certain will and an award. Neither of these documents was produced when the plaint was filed, as ought to have been done, under

[1] (1896) 22 Bom. 173.

Order VII, Rule 14. The will was only produced on the 9th of February 1916, the day before the judgment was given and the award was not produced at all. The Judge, therefore, exercising his discretion under Rule 18 did not allow the plaintiffs to produce the material documents at that stage of the case and dismissed the claim. In appeal the Assistant Judge confirmed the decree of the lower Court. I agree with the reasons which are given by the learned Subordinate Judge. Rule 14 of Order VII was enacted in order that its provisions might be complied with, and the reasons for its enactment are very clear. It is certainly desirable that a party who sues upon a certain document should produce it at the time he files the plaint and not spring it upon the opposite party two or three years after when the suit comes on for hearing. The defendant of course has a remedy, if he chooses, to apply for discovery. But apparently the remedy by discovery is not made much use of in the Mofussil. Therefore both the lower Courts, in my opinion, were perfectly right in finding that the plaintiffs had not proved their case. Therefore the appeal must be dismissed with costs.

Appeal dismissed.

R. R.

APPELLATE CIVIL.

Before Sir Norman Macleod, Kt., Chief Justice.

BHUJANGOUDA ADGONDA PATIL (ORIGINAL DEFENDANT No. 1), APPELLANT *v.* BABU BALA BOKARE (ORIGINAL PLAINTIFF), RESPONDENT.*

1920. December 14.

Hindu law—Adoption—Adoption by widow during life time of a son adopted by her husband.

Under Hindu law, a widow cannot adopt to her husband when there is in existence a son adopted by her husband. Her right to adopt remains suspended so long as the adoption made by her husband is not set aside.

* Second Appeal No. 648 of 1918.