

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Civil Case No.45 of 2016**

- Smt. Khatija Begam Wd/o Taj Mohammad, Aged About 60 Years R/o In The House Of Shabbir, Infront Street Of Benchu Kasai, Talapara, Bilaspur, Tahsil And District Bilaspur, Chhattisgarh(Defendant No.1)

---- Applicant

Versus

1. Smt. Saida Begam W/o Mohammad Ismail Khan, Aged About 52 Years R/o Qtr. No. 1511/1, Banglow Yard Wireless Colony, Near Chhoti Bharatmata School, Bilaspur, District Bilaspur, Chhattisgarh(Plaintiff)
2. Alidad Khan S/o Navidad Khan, Aged About 45 Years R/o Near Madarsa Irfaniya, Khaparganj, Bilaspur, District Bilaspur, Chhattisgarh(Defendant No.2)

---- Respondents

For appellant : Smt. Hamida Siddique, Advocate
 For respondents : None present.
 Shri Ramakant Pandey, Panel Lawyer for the State.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****07.11.2016.**

Heard.

2. Learned counsel for the State would submit that as directed by this Court on 21.01.2016 he has filed the report on 18.10.2016.
3. A perusal of the receipt and other documents shown by State counsel reflects that submission memo and copy of the report submitted by the Sub Divisional Officer (Revenue) dated 01.10.2016 were filed on 18.10.16 for which the State counsel is having the receipt.
4. In the Office note dated 02.11.2016, it is mentioned that the State has not filed the report, as directed. Reader of this Court draws

attention that in MCC No.211 of 16, submission memo of the instant MCC and the copy of the report are annexed.

5. The Reader is directed to separate and place the concerned report in the instant MCC 45/16 from the bundle of report placed in MCC No.211/16.

6. Heard after placement of the said submission memo and copy of the report regarding filing of instant First appeal along with instant MCC.

7. The MCC has been preferred within its limitation.

8. As per the report, the applicant/appellant has no source of income, she is completely depend upon her daughter namely Afsana for her livelihood. Her son-in-law is also supports her for her livelihood.

9. On perusal of the said report, it appears that the appellant/applicant is an indigent person. Hence, it would be proper to permit her to file the appeal as an indigent person under the provisions of Order 33 read with Order 44 Rule 1 of the Code of Civil Procedure, 1908 (for short 'the Code').

10. Consequently, the MCC is allowed and the applicant/appellant is permitted to prefer the appeal as an indigent person. The applicant is exempted from paying the requisite court fee to prefer the appeal.

11. Registry is further directed to call the record from the concerned Tribunal through usual and fax mode.

12. Heard on the question of admission.

13. Perused the impugned judgment and decree of the instant appeal.

14. The appeal is not liable for dismissal under Order 41 Rule 11 of the Code.

15. The appeal appears to be arguable.
16. The appeal is admitted for consideration.
17. Issue notice to the respondents on merits of the appeal and also on IA No.04/16 for grant of stay, on payment of PF within seven days from today under Rules 167 and 172 of the High Court of Chhattisgarh Rules, 2007 through RAD mode in addition to the usual mode of service returnable within four weeks along with a copy of the appeal , IA No.04 for grant of stay and other annexed documents.
18. Notice of hearing shall be affixed on the notice board of this Court and also be sent to the Court of first instance, i.e. Third Additional District Judge, Bilaspur in accordance with Order 41 Rule 14 of the Code.
19. The appellants are directed to furnish security of Rs.5,000/- before the Court of first instance for the cost of this appeal within a period of one month in accordance with Order 41 Rule 10 of the code.
20. List this matter immediately are service to the respondents are completed for hearing on IA No.04/16.
21. Registrar (Judl.) is directed to look into the matter where the report of indigency of the applicant of this MCC was placed along with documents of MCC No.211/16. Further directed to remain cautious for making correct noting in the matter.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE