

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCC No. 212 of 2016**

- Jitendra Kumar S/o Tulsi Ram Suryavanshi, Aged About 28 Years R/o Village- Dhurwakari, Present Address- Hardi Bajar, Tehsil- Hardi Bajar, Dist.- Korba, Chhattisgarh(Defendant No.1)

---- **Petitioner****Versus**

1. Narad S/o Banmali Suryavanshi, Aged About 50 Years R/o Konargarh, Tehsil- Pamgarh, Dist.- Janjgir-Champa, Chhattisgarh(Plaintiff)
2. State Of Chhattisgarh, Through Collector, Janjgir, Dist.- Janjgir-Champa, Chhattisgarh(Defendant No.2)

---- **Respondents**

For applicant	: Mr. Lalit Jangde, Adv.
For Respondent No. 1	: Not noticed.
For respondent No. 2/State	: Ms. Shobha Kashyap, Dy. GA.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****18/11/2016**

Ms. Shobha Kashyap, Dy. Govt. Adv. appears for representation of State regarding report of indigent person.

Perused the report submitted by the Collector, Korba as directed by this Court.

After perusal of the said report, it appears that the present applicant Jitendra Kumar is presently residing in a rented house and engaged as labour in a grocery shop. No immovable property is recorded in his name. Father of the appellant is working as peon in government department having 40 decimal agricultural land, a two storied house, also 0.020 hectare land is recorded in the name of mother of the applicant.

As the applicant was defendant in the said Civil Suit No. 11-B/2015 hence he was not required to pay any court fee before the trial Court.

The present MCC under Order 44 Rule 1 of the CPC along with the first appeal is filed by the applicant within its limitation.

After perusal of the report of the Collector, it appears that the applicant is not having any immovable or movable property worthy to

mention. With this, he is an indigent person as defined in Order 33 Rule 1 of the CPC as he is not possessing sufficient means to enable him to pay fee prescribed by law to file an appeal under the provisions of Order 44 Rule 1 of the CPC, also learned counsel for the State not submitted anything contrary to the report of the Collector.

Upon due consideration, the application filed Order 44 Rule 1 of the Code is hereby allowed. The applicant is permitted to file the First appeal as an indigent person.

Heard on the question of admission of first appeal No. 69/2016.

Perused the impugned judgment and decree and the memo of instant FA.

This appeal has been filed within its limitation. It is not liable for dismissal under Order 41 Rule 11 of the CPC. The appeal appears to be arguable.

The appeal is admitted for consideration.

Appellant is directed to pay PF within 7 days from today.

Let notice be issued to respondents through usual and RAD mode under Rules 167 and 172 of the High Court of Chhattisgarh Rules, 2007, returnable within 4 weeks along with copy of instant FA, I.A. No. 1/16 for stay and the documents annexed.

Notice of hearing shall be affixed in the notice board of this Court and also be sent to the Court of first instance i.e. 1st Additional Distt. Judge, Janjgir Champa in accordance with Rule 41 Rule 14 of the CPC.

The appellant is directed to furnish security of Rs. 5,000/- before the Court of first instance for the cost of this appeal and also the cost of judgment and decree passed by the Court below within a period of one month in accordance with Order 41 Rule 10 of the CPC.

List the matter for hearing on application for grant of stay after service report is received.

MCC allowed.

Sd/-
(Chandra Bhushan Bajpai)
Judge