

HIGH COURT OF CHHATTISGARH, BILASPUR**MCC No. 498 of 2016**

Smt. Pushpa Devi Agrawal W/o Anand Agrawal, Aged About 60 Years
Caste Agrawal, Occupation House Wife, R/o Village Lakha, Tahsil and
District Raigarh, District Raigarh, Chhattisgarh.

---- Petitioner**Versus**

1. Executive Engineer Kelo Project, Inspection Division, Raigarh, Chhattisgarh.
2. Land Acquisition Officer Cum Sub Divisional Officer, Raigarh, District Raigarh (Chhattisgarh).
3. State of Chhattisgarh Through Collector, Raigarh, District- Raigarh (Chhattisgarh).

---- Respondents

For Petitioner	:	Shri C Jayant K Rao, Advocate.
For Respondent/State	:	Shri Vaibhav A Gowardhan, Panel Lawyer.

Hon'ble The Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order On Board

Per, Deepak Gupta, C.J.
28/09/2016

1. Admit.
2. This MCC is for restoration of First Appeal (M) No.132 of 2014 which was dismissed for non submission of indigent certificate.
3. Infact on an earlier occasion, we had raised a question as to whether the Collector had any power to issue a certificate of indigence in terms of Order 33 Rule 4(1) of the Code of Civil Procedure. Who is an indigent person has to be decided by the court and not by the revenue officer. Shri Rao points out that the State of Madhya Pradesh had exempted a lady having income of less than Rs.25,000/- from paying court fee.

4. Shri Vaibhav Gowardhan, relying upon the judgment of Madhya Pradesh High Court in case of Chandulal Ghasiram Baradwar and Another Vs. Central Bank of India and Another, reported in 1992 MPLJ,381, submits that this exemption applies only in Civil Suits and not in Appeals.
5. We feel that this judgment may require consideration. Therefore, we restore First Appeal (M) No.132 of 2014 to its original number. The appeal is also admitted. We however make it clear that we have not decided the question whether the Appeal is maintainable without payment of court fee and the same shall be decided at the time of final hearing.
6. It will be open for the respondents to raise objection that the Appeal without deposit/payment of court fee is not maintainable.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE

Sd/-

(P.Sam Koshy)
JUDGE