

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCC No. 1047 of 2015**

Badrivishal S/o Birichram Kewat, Aged About 39 Years
Occupation Labourer R/o Village Kamrid, Revenue & Civil
District Janjgir Champa (Chhattisgarh).....(Plaintiff)

---- Applicant**Versus**

1. Gaurishankar S/o Bhusanlal Kashyap, Caste Kurmi,
Occupation Laborer, R/o Village Kamrid, Revenue & Civil
District Janjgir Champa (Chhattisgarh)
2. State Of Chhattisgarh Through Collector, District Janjgir
Champa (Chhattisgarh).....(Defendant)

---- Respondents

For applicant	:	Shri S.K. Guha, Advocate
For respondent 1	:	Shri Virendra Kumar Verma, Advocate on behalf of Shri P.M. Srivas, Advocate
For respondent 2	:	Shri Sumit Jhanwar, PL

HON'BLE SHRI JUSTICE CHANDRA BHUSHAN BAJPAI**ORDER****15.11.2016**

1. On behalf of the applicant, it is prayed that they have already filed the suitable affidavit as required and directed vide order dated 18.10.2016 and 7.11.2016.

2. Considered the said affidavit filed on behalf of the applicant and order of the trial Court dated 4.1.2011 whereby the concerned trial Court on the basis of certificate issued by the Tehsildar and no objection or any document to contradict the said certificate on behalf of the State has been filed, held that the applicant/plaintiff is entitled to dispense with the court fee as required under section

35 of the Court Fees Act, 1870 and thereafter the court below passed the judgment and decree dated 15.7.2015.

3. From perusal of the said decree, it appears that the plaintiff/present applicant had not affixed the court fee in the said civil suit. With this, it appears that the applicant was exempted during the trial to pay court fee as required. Also by filing the instant affidavit, the applicant on oath deposed that he had not ceased to be indigent person.

4. There is no dispute regarding truth of the said statement made in the said affidavit on behalf of respondent 2.

5. After perusal of the provisions of Order 44 Rule 3 sub-rule, the present applicant is allowed to sue the appeal as indigent person against the judgment and decree dated 15.7.2015 passed by the 1st Additional District Judge, Janjgir, District Janjgir Champa in C.A.No.1A/11.

6. Heard on I.A.No.1/2015 for condonation of delay in filing the MCC as it is barred by 68 days of its limitation.

7. On due consideration, I.A.No.1/2015 is allowed. Delay is condoned.

8. Heard on the instant MCC.

9. On due consideration, the MCC is allowed.

10. Registry is directed to list the matter under the head of First Appeal.

11. Parties are represented.
12. Call for the records through usual and fax mode.
13. List the matter for hearing on admission and also for further proceedings after 2 weeks.

Sd/-

(Chandra Bhushan Bajpai)
JUDGE