

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCC No. 699 of 2016

1. Smt. Leela Bai W/o Late Krishna Kumar, aged about 33 years, R/o- Village- Ramtala, Tahsil & District- Bilaspur, (Chhattisgarh),..... (Defendent).

---- Applicant

Versus

1. Ramsingh S/o Maniram Sahu, aged about 63 years, R/o- Village- Sendri, Tahsil & District- Bilaspur, (Chhattisgarh),.....(Plaintiff).

---- Respondent

For Applicant – Shri Tarkeshwar Nande, Advocate.

Shri Satish Gupta, Govt. Advocate for the State for the purposes of submission of report as directed by this Court regarding indigency of the applicant.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

02/02/2017

1. Report of the State through Collector, Bilaspur dated 20-01-2017 is submitted by learned State counsel.
2. Perused the said report. As per said report annual income of the applicant from all sources is reported as Rs.18000/- per annum, also the applicant is holder of ration card under the category of poverty line, there is no any immovable property in the name of the applicant.
3. Also perused the report of the Registrar (Judicial) dated 30-01-2017 as directed. As per this report, the applicant is unable to pay the court fee and as such she may come under the purview of indigent person as prescribed in Order 33 Rule 1 of the CPC.
4. The present applicant was defendant in Civil Suit No.171A/2014.
5. On due consideration, the applicant is unable to pay the court fee of the first appeal filed by her. She appears to be indigent person under the provision of Order 33 Rule 1 of the CPC. Enquiry conducted by the Registry and also by the State mentioned that she is not having sufficient means to pay court fee in

the matter. With this, the application of the applicant filed under Order 44 Rule 1 of the CPC is hereby allowed. The applicant is permitted to prosecute the first appeal without paying court fee as required. However, it is observed that if any fact surfaced contrary, the Court may direct to pay court fee under the law applicable.

6. The MCC is hereby allowed.

7. Registry is directed to list the matter under the head of First Appeal which is preferred within its limitation.

8. Heard on the question of admission.

9. Perused the impugned judgment and decree and the instant first appeal.

10. The appeal is not liable for dismissal under Order 41 Rule 11 of the CPC. The appeal appears to be arguable.

11. The appeal is admitted for consideration.

12. The appellant is directed to pay P.F. within 7 days from now.

13. Let notice be issued to the respondent on merits of the First Appeal also on I.A.No.1/2016 along with copy of the appeal and the documents annexed through usual mode and registered mode, returnable within four weeks.

14. 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. First Additional District Judge, Bilaspur, C.G. in accordance with Order 41 Rule 14 of the CPC.

15. The appellant is directed to furnish security of Rs.5000/- each before the Court of first instance for the cost of this appeal and the cost of the Court below within a period of one month in accordance with Order 41 Rule 10 of the CPC.

16. Registry is directed to call for the record of the Court below through

usual mode and fax mode immediately.

17. List the matter for hearing on I.A.No.1/2016 after service of notice to the respondent is complete and the record of the Court below is available.

18. Registry is further directed to not to mention the name of A.G. hereafter as now the State is not required to answer anything in the matter.

Sd/-

(Chandra Bhushan Bajpai)
Judge