

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

MCC No. 164 of 2018

Pradeep Jain **Versus** M. D. Tiwari

09/07/2018	Shri Uttam Pandey, counsel for the appellant. Shri Parag Kotecha, counsel for respondents No. 1 & 2. Shri Lav Sharma, Panel Lawyer for the State/respondent No.3. Heard on application under Order 44 Rule 1 CPC for grant of permission to sue as indigent person. It is not in dispute that the appellant was permitted to prosecute the suit as indigent person. Present appeal arises out of judgment passed in the suit in which the appellant was permitted to sue as indigent person. We have gone through the contents of the application. Earlier, this Court had also directed an enquiry to be made. Along with his reply, learned counsel for the respondents have placed on record a report of the office of Tahsilder. Respondents have also placed before this Court copy of order dated 10.9.2014 and copy of criminal complaint filed before the Chief Judicial Magistrate along with affidavit. There is no material before us to reach to the conclusion that after passing of the impugned judgment and decree, the appellant no longer continued to be indigent person and has got sufficient means to pay huge amount of Court fee. Though learned counsel for the respondents No. 1 & 2 argues that the report of Tahsildar is that the appellant is not indigent, we do not find any material information contained in the report of Tahsildar that the appellant is possessed of sufficient means. Except a dwelling

house in which he himself resides, there is no other means through which the appellant could generate huge amount of Court fee. Learned counsel for the respondents also submits that the affidavit is not very clear to show that the appellant has not ceased to be indigent person after passing of the impugned judgment and decree. The order passed in the criminal case only shows that in proceedings under Section 138 of the Negotiable Instruments Act, the criminal Court directed Rs.1,25,000/- to be paid to the appellant. Even we accept this, this is too small in amount to fill in the gap between the appellant's indigency and his competency to pay the Court fee. Therefore, we are inclined to allow the appellant to pursue this appeal as *forma pauperis*. Therefore, the application is allowed. Registry is directed to register this matter as first appeal and list it for hearing on admission.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge