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C.M.P.No.6207 of 2023

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in AS.Sr.No.11372 of 2010

A.D.JAGADISH CHANDIRA, J.

This petition has been filed by the petitioner seeking to prefer the appeal as an indigent person against the judgment and decree in OS.No.3626 of 1996 dated 05.01.2009 on the file of the VII Additional City Civil Court, Chennai.

2. The learned counsel for the petitioner would submit that the petitioner, though enrolled as an Advocate, is not a practising Advocate. He had started industries and the industries became sick, making him unable to repay the loan and thereby the financial institutions seized the machinery from the factory, causing the industries to be closed. Earlier, the petitioner had filed an application seeking exemption from payment of court fees amounting to Rs.65,390/-. This Court, however, dismissed the application by an order dated 24.01.2023. Thus, the present petition has been filed seeking permission for the petitioner to prefer the appeal as an indigent person.



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3. The respondent has filed a detailed counter.

4. The learned counsel for the first respondent would submit that in the earlier application filed by the petitioner seeking exemption from the payment of the court fee, this Court found that the petitioner, other than filing an affidavit, had not produced sufficient documents to establish his indigent circumstances. As a result, the said application was dismissed. This Court also found that the petitioner is an Advocate by profession and his sister is well off and he had refused to pay court fee and filed the petition only to delay the proceedings had dismissed the application. This Court had already come to the conclusion that the petitioner is not an indigent person and seeks to dismiss the present application.

5. The learned Government Advocate appearing for the second respondent would submit that in an earlier application, the respondent filed a report and during inquiry, it was found that the petitioner did not reside at the address given by the petitioner.



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6. Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the materials available on record.

7. Earlier, this Court found that the mere claim of the petitioner to be an indigent person cannot be accepted and thereby had dismissed the application to exempt the petitioner from paying the court fee. For a better appreciation, the order passed by this Court in CMP.No.18472 of 2019 in para – 5 is extracted here under:

“Court cannot exempt payment of Court fee in a routine manner. Indigent circumstances of a person is to be established through documents and such documents must be acceptable for the purpose of forming an opinion that the petitioner is not in a position to pay the Court fee. However, the petitioner-in-person, says that he is not having sufficient money to pay the Court fee. Mere statement in this regard would be insufficient. The petitioner-in-person further states that he is now residing along with his sister, who is well off. The petitioner is a practising lawyer and he was running an Industry, which became sick and therefore, the respondent instituted a suit. This Court is unable to form an opinion that the petitioner is an



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indigent person and capable of paying the Court fee. The petitioner has not filed any document to establish his indigent circumstances. Based on presumptions and assumptions, exemption from payment of Court fee cannot be granted and thus, this Court do not find any merit in the contentions raised by the petitioner.”

8. In view of the above, the petition seeking to file the appeal as an indigent person cannot be allowed. Hence, this petition is dismissed.

11.09.2023

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