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**1. Suits may be instituted by indigent persons**

Subject to the following provisions, any suit may be instituted by an indigent person.

Explanation 1.—A person is an indigent person,—

(a) If he is not possessed of sufficient means (other than property exempt from attachment in execution of a decree and the subject-matter of the suit) to enable him to pay the fee prescribed by law for the plaint in such suit, or

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(b) where no such fee is prescribed, if he is not entitled to property worth one thousand rupees other than the property exempt from attachment in execution of a decree, and the subject-matter of the suit.

Explanation II.—Any property which is acquired by a person after the presentation of his application for permission to sue as an indigent person, and before the decision of the application, shall be taken into account in considering the question whether or not the applicant is an indigent person.

Explanation III—Where the plaintiff sues in a representative capacity, the question whether he is an indigent person shall be determined with reference to the means possessed by him in such capacity.

### **1A. Inquiry into the means of an indigent person**

Every inquiry into the question whether or not a person is an indigent person shall be made, in the first instance, by the chief ministerial officer of the Court, unless the Court otherwise directs, and the Court may adopt the report of such officer as its own finding or may itself make an inquiry into the question.

### **2. Contents of application**

Every application for permission to sue as an indigent person shall contain the particulars required in regard to plaints in suits: a schedule of any movable or immovable property belonging to the applicant, with the estimated value thereof, shall be annexed thereto; and it shall be signed and verified in the manner prescribed for the signing and verification of pleadings.

### **3. Presentation of application**

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Notwithstanding anything contained in these rules, the application shall be presented to the Court by the applicant in person, unless he is exempted from appearing in Court, in which case the application may be presented by an authorised agent who can answer all material questions relating to the application, and who may be examined in the same manner as the party represented by him might have been examined had such party attended in person:

Provided that, where there are more plaintiffs than one, it shall be sufficient if the application is presented by one of the plaintiffs.

#### **4. Examination of applicant**

(1) Where the application is in proper form and duly presented, the Court may, if it thinks fit, examine the applicant, or his agent when the applicant is allowed to appear by agent regarding the merits of the claim and the property of the applicant.

(2) If presented by agent, Court may order applicant to be examined by commission.—Where the application is presented by an agent, the Court may, if it thinks fit, order that the applicant be examined by a commission in the manner in which the examination of an absent witness may be taken.

#### **5. Rejection of application**

The Court shall reject an application for permission to use as an indigent person—

(a) where it is not framed and presented in the manner prescribed by rules 2 and 3, or

(b) where the applicant is not an indigent person], or

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(c) where he has, within two months next before the presentation of the application, disposed of any property fraudulently or in order to be able to apply for permission to use as an indigent person:

Provided that no application shall be rejected if, even after the value of the property disposed of by the applicant is taken into account, the applicant would be entitled to sue as an indigent person. or

(d) where his allegations do not show a cause of action, or

(e) where he has entered into any agreement with reference to the subject-matter of the proposed suit under which any other person has obtained an interest in such subject-matter; or

(f) where the allegations, made by the applicant in the application show that the suit would be barred by any law for the time being in force, or

(g) where any other person has entered into an agreement with him to finance the litigation.

## **6. Notice of day for receiving evidence of applicant's indigency**

Where the Court sees no reason to reject the application on any of the grounds stated in rule 5, it shall fix a day (of which at least ten day's clear notice shall be given to the opposite party and the Government pleader) for receiving such evidence as the applicant may adduce in proof of his indigency, and for hearing any evidence which may be adduced in disproof thereof.

## **7. Procedure at hearing**

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(1) On the day so fixed or as soon thereafter as may be convenient the Court shall examine the witnesses (if any) produced by either party, and may examine the applicant or his agent, and shall make a full record of their evidence.

(1A) The examination of the witnesses under sub-rule (1) shall be confined to the matters specified in clause (b), clause (c) and clause (e) of rule 5 but the examination of the applicant or his agent may relate to any of the matters specified in rule 5.

(2) The Court shall also hear any argument which the parties may desire to offer on the question whether, on the face of the application and of the evidence (if any) taken by the Court under rule 6 or under this rule, the applicant is or is not subject to any of the prohibitions specified in rule 5.

(3) The Court shall then either allow or refuse to allow the applicant to sue as an indigent person.

## **8. Procedure if application admitted**

Where the application is granted, it shall be numbered and registered, and shall be deemed the plaint in the suit, and the suit shall proceed in all other respects as a suit instituted in the ordinary manner, except that the plaintiff shall not be liable to pay any court-fee or fees payable for service of process in respect of any petition, appointment of a pleader or other proceeding connected with the suit.

## **9. Withdrawal of permission to sue as an indigent person**

The Court may, on the application of the defendant, or of the Government pleader, of which seven days, clear notice in writing has been given to the plaintiff, order that the permission granted to the plaintiff to sue as an indigent person be withdrawn—

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- (a) if he is guilty of vexatious or improper conduct in the course of the suit;
- (b) if it appears that his means are such that he ought not to continue to sue as an indigent person; or
- (c) if he has entered into any agreement with reference to the subject-matter of the suit under which any other person has obtained an interest in such subject-matter.

**9A. Court to assign a pleader to an unrepresented indigent person**

- (1) Where a person, who is permitted to sue as an indigent person, is not represented by a pleader, the Court may, if the circumstances of the case so require, assign a pleader to him.
- (2) The High Court may, with the previous approval of the State Government, make rules providing for—
  - (a) the mode of selecting pleaders to be assigned under sub-rule (1);
  - (b) the facilities to be provided to such pleaders by the Court ;
  - (c) any other matter which is required to be or may be provided by the rules for giving effect to the provisions of sub-rule (1).

**10. Costs where indigent person succeeds**

Where the plaintiff succeeds in the suit, the Court shall calculate the amount of court-fees which would have been paid by the plaintiff if he had not been permitted to sue as an indigent person; such amount shall be recoverable by the State Government from any party ordered by the decree to pay the same and shall be a first charge, on the subject-matter of the suit.

**11. Procedure where indigent person fails**

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Where the plaintiff fails in the suit or the permission granted to him to sue as an indigent person has been withdrawn, or where the suit is withdrawn or dismisses,—

(a) because the summons for the defendant to appear and answer has not been served upon him in consequence of the failure of the plaintiff to pay the court-fee or postal charges (if any) chargeable for such service or to present copies of the plaint or concise statement, or

(b) because the plaintiff does not appear when the suit is called on for hearing, the Court shall order the plaintiff, or any person added as a co-plaintiff to the suit, to pay the court-fees which would have been paid by the plaintiff if he had not been permitted to sue as an indigent person.

**11A. Procedure where indigent persons suit abates**

Where the suit abates by reason of the death of the plaintiff or of any person added as a co-plaintiff, the Court shall order that the amount of court-fees which would have been paid by the plaintiff if he had not been permitted to sue as an indigent person shall be recoverable by the State Government from the estate of the deceased plaintiff.

**12. State Government may apply for payment of court-fees**

The State Government shall have the right at any time to apply to the Court to make an order for the payment of court-fees under rule 10, rule 11 or rule 11A.

**13. State Government to be deemed a party**

All matters arising between the State Government and any party to the suit under rule 10, rule 11, rule 11A or rule 12 shall be

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deemed to be questions arising between the parties to the suit within the meaning of section 47.

#### **14. Recovery of amount of court-fees**

Where an order is made under rule 10, rule 11 or rule 11A, the court shall forthwith cause a copy of the decree or order to be forwarded to the Collector who may, without prejudice to any other mode of recovery, recover the amount of court-fees specified therein from the person or property liable for the payment as if it were an arrear or land revenue.

#### **15. Refusal to allow applicant to sue as indigent person to bar subsequent application of like nature**

An order refusing to allow the applicant to sue as an indigent person shall be a bar to any subsequent application of the like nature by him in respect of the same right to sue; but the applicant shall be at liberty to institute a suit in the ordinary manner in respect of such right; provided that the plaint shall be rejected if he does not pay, either at the time of the institution of the suit or within such time thereafter as the Court may allow, the costs (if any) incurred by the State Government and by the opposite party in opposing his application for leave to sue as an indigent person.

#### **15A. Grant of time for payment of court-fee**

Nothing contained in rule 5, rule 7 or rule 15 shall prevent a Court, while rejecting an application under rule 5 or refusing an application under rule 7, from granting time to the applicant to pay the requisite court-fee within such time as may be fixed by the Court or extended by it from time to time; and upon such

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payment and on payment of the costs referred to in rule 15 within that time, the suit shall be deemed to have been instituted on the date on which the application for permission to sue as an indigent person was presented.

## **16. Costs**

The costs of an application for permission to sue as an indigent person and of an inquiry into indigency shall be costs in the suit.

## **17. Defence by an indigent person**

Any defendant, who desire to plead a set-off or counterclaim, may be allowed to set up such claim as an indigent person, and the rules contained in this Order shall so far as may be, apply to him as if he were a plaintiff and his written statement were a plaint.

## **18. Power of Government to provide for free legal services to indigent persons**

(1) Subject to the provisions of this Order, the Central or State Government may make such supplementary provisions as it thinks fit for providing free legal services to those who have been permitted to sue as indigent persons.

(2) The High Court may, with the previous approval of the State Government, make rules for carrying out the supplementary provisions made by the Central or State Government for providing free legal services to indigent persons referred to in sub-rule (1), and such rules may include the nature and extent of such legal services, the conditions under which they may be made available, the matters in respect of which, and the agencies through which, such services may be rendered.

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