

CHAPTER XIII

SUITS BY INDIGENT PERSONS

210. Definition of the word “indigent”.- A person shall be deemed to be an indigent person if he is not possessed of means exceeding one thousand rupees in value, or where he is possessed of means exceeding one thousand rupees in value the same are not sufficient to enable him to pay the fees prescribed by law for the plaint.

For the purposes of this definition the means which a person is possessed of shall be deemed not to include his necessary wearing apparel. Property exempt from attachment in execution of a decree and the subject-matter of the suit.

Explanation I. – 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 II.- 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.

211. Defendant may be allowed to defend as an indigent person. – The provisions contained in Order XXXIII of the Code of Civil Procedure and in these rules shall apply, with any necessary modifications, to a defendant and the Court or the Judge in Chambers may allow a defendant to defend the suits as an indigent person.

212. Application by an indigent person for leave to be by petition. – An application for permission to sue, to proceed with a suit or to defend a suit as an indigent person shall be made by petition, setting out concisely in separate paragraphs the facts and the relief prayed; such petition shall be presented to the Prothonotary and Senior Master who shall, on satisfying himself that the provisions of Order XXXIII of the Civil Procedure Code have been complied with and not otherwise, order it to be interpreted gratis, where necessary.

213. Notice for investigation.- On such petition being filed in the Office of the Prothonotary and Senior Master, on the application of an indigent person, a notice returnable before the Prothonotary and Senior Master, for investigation of the petitioners’ claim that he is an indigent person, shall be issued.

214. Suit in ordinary form may be cautioned as by an indigent person. – The Court or the Judge in Chambers may allow a suit, which has been commenced in the ordinary form, to be continued as a suit by an indigent person.

215. Advocate may be appointed for indigent person. - Where a person is permitted to sue or defend as an indigent person, the Court or the Judge in Chambers may, if necessary appoint an Advocate to assist him, and an Advocate so appointed shall not be at liberty to refuse this assistance, unless he satisfies the Court or the Judge in Chambers that he has good reason for refusing. The Court or the Judge in Chambers may at any stage of the suit or matter withdraw legal assistance from such an indigent person, if it or he deems it proper to do so.

The Court or the Judge in Chambers may also, pending the inquiry into the claim that the indigent person is unable to pay the court-fees, appoint an Advocate to assist the petitioner for the purpose of any interlocutory application which may be made by any party before the inquiry is concluded. The Advocate so appointed shall not be at liberty to refuse his assistance unless he satisfies the Court or the Judge in Chambers that he has good reason for refusing. Such appointment shall come to an end after leave to sue or defend as an indigent person is refused. If leave to sue or defend as an indigent person is granted, the appointment of the Advocate to assist the indigent person shall continue.

216. Duty of Advocate in suits or matters by indigent persons.- It shall be the duty of the Advocate, who may be appointed to act for a person permitted to sue or defend as an indigent person, to take care that no notice is served, summons issued or petition presented without good cause and to report to the Court every six months the progress of the suit or matter

217. No fees to be taken from indigent person. – Whilst a person sues or defends as an indigent person, no person who has been appointed by the Court to assist him shall take or agree to take or seek to obtain from him any fee, profit or reward for the conduct of his business in the Court, and any such person who takes or agrees to take or seeks to obtain any such fee, profit or reward shall be guilty of misconduct:

Provided that notwithstanding anything herein contained, the Court or the Judge in Chambers shall have power to award costs against the adverse party or out of the property recovered in the suit and to direct the payment thereof to the Advocate representing the indigent person.

218. No compromise without leave of the Court. – No cause, suit or matter commenced or carried on by an indigent person whether plaintiff or defendant shall be compromised on any account whatever without leave first had and obtained from the Judge in Chambers or the Court.

219. Direction for payment of Court fees in every decree or order. – Unless otherwise ordered, in every suit in which an indigent party is concerned a direction shall be inserted in every decree or order for payment to Government of the Court-fees which he would have had to pay had he not been permitted to sue or proceed with the suit or defend as an indigent person.

220. Memo of fees to Government Advocate - In every suit in which an indigent person is indigent person is concerned, the Prothonotary and Senior Master after the disposal of the suit send to the Advocate to Government a memo of the court-fees due and payable by such an indigent person.

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