

**IN THE COURT OF DISTRICT JUDGE-02
SOUTH-EAST DISTRICT, SAKET: NEW DELHI**

CS DJ No. 7958/16

Ashutosh Jana

.....Plaintiff

Versus

Dharmendar Singh and Ors.

.....Defendant

**ORDER
04.04.2026**

This order shall decide an application under Order 33 Rule 1 CPC filed by the plaintiff.

2. I heard arguments on behalf of both the parties and perused the material available on record.

3. Having heard the submissions and perused the record, I do not find any merit in the contentions of learned counsel for plaintiff.

4. As per record, plaintiff filed the present suit seeking cancellation of title documents, recovery of possession, damages as well as decree of permanent injunction.

5. Vide order dated 17.01.2023, application under Order 6 Rule 17 CPC filed by the plaintiff was allowed and plaintiff was directed to value the suit at Rs. 50,00,000/- for the purpose of Court fees and jurisdiction. Plaintiff was also directed to file amended plaint alongwith Court Fees. However, plaintiff filed the amended plaint alongwith application under Order 33 Rule 1 CPC which is under consideration.

6. Plaintiff was also examined by learned Predecessor in respect of application under Order 33 Rule 1 CPC.

7. Having perused the record, it appears, nay, it is evident that plaintiff has not bothered to go through Order 33 CPC in its entirety before moving the application under consideration.

8. As per settled propositions of law, any application under Order 33 CPC is to be filed before institution of the suit, seeking permission to sue as an indigent person. On moving such application under Rule 3, the applicant may be examined by the Court under Rule 4. Such application shall be rejected by the Court on any of the grounds stipulated under Rule 5.

9. Further, Rule 8 stipulates in clear terms 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 as a suit instituted in the ordinary manner except that the plaintiff shall not be liable to pay any Court-fee.

10. It is also settled that such exemption from filing Court-fee granted to the plaintiff is not an absolute exemption and where the plaintiff succeeds in the suit, the Court, under Rule 10, 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 and such amount shall be recoverable from any party ordered by the decree to pay the same and shall be the first charge on the subject matter of the suit.

11. Similarly, where the plaintiff fails in the suit, the Court, under Rule 11, shall order the plaintiff to pay the Court fees which would have been paid if he had not been permitted to sue as an indigent person. Rule 12 further stipulates that 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.

Furthermore, Rule 14 stipulates about the recovery of amount of Court fees as if it were as arrears of land revenue.

12. It is worthy to note that plaintiff initially filed the present suit after valuing it at Rs. 2,15,000/- and at Rs. 2,00,000/- for the relief of damages in para 18 of the plaint while undertaking to file additional Court fee as and when directed. A total Court fees of Rs. 8,200/- was also filed with the suit.

13. The upshot is that the application under Order 33 Rule 1 CPC filed by the plaintiff alongwith the amended plaint is wholly devoid of merits and is accordingly dismissed.

14. In the given circumstances, plaintiff is directed to file the deficient Court fees within two weeks.

[Kuldeep Narayan]
District Judge – 02
South-East District,
Saket Courts, Delhi
04.04.2026 / bh