

GJBN150000702026



Received on : 19th January, 2026

Registered on : 19th January, 2026

Decided on : 8th May, 2026

Duration : YY MM DD
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IN THE COURT OF 2nd ADDITIONAL DISTRICT JUDGE,
AT MAHUVA

Misc. Civil Appli. 1/2026

- 1) Paljibhai Mayabhai Parmar
Age: 64 Occupation : Labour work

R/o of village Sarod,
Ta.: Palitana, Dist. : Bhavnagar

Versus

Respondents :-

- 1) The Administrator,
Sadbhavna Trust Hospital, Vadli.
Ta.: Mahuva, Dist. : Bhavnagar
- 2) The Medical Officer,
Sadbhavna Trust Hospital, Vadli.
Ta.: Mahuva, Dist. : Bhavnagar
- 3) The State of Gujarat
through its APP, Mahuva

Re: - Pauper Application u/s. 33, Rule1,2 and Article 151 of
the C.P.C.

Appearance:

Mr. P. L. Sonpal, learned Advocate for the Applicant

Mr. H. N. Andhariya, learned Advocate for the Opponent No.1,2

Learned A.P.P. Mr. K. H. Kesri for the Opponent No.3

J U D G M E N T

01. Heard the learned advocates for the parties. Read the application and evidence on record. It is the case of applicants that they have not sufficient means to pay the court fees. Therefore, pray for institution of appeal as an indigent persons. The opponent has strongly objected the present application contending that the applicants are not an indigent persons as defined in order 33 of the C.P.Code. Therefore, requested to reject the application.
02. The notices of this application have been served to the opponents and the opponent No.1 & 2 have remain present before this Court and filed their W.S. vide Exh.9 and denied the facts of applicants. The opponent No.3 has remained present through Ld. A.P.P. and produced copy of letter of Talati cum Mantri, Nava Sarod Gram Panchayat contending that applicant is possessing property at village Nava Sarod.
03. The point in issue is whether the applicants have sufficient means to pay Court fees? Now to decide the issue, we have to go through the Order XLIV, Rule-1 of the CPC which reads as under :-

1. Who may appeal as an indigent person-(1) Any person entitled to prefer an appeal, who is unable to pay the fee required for the memorandum of appeal, may present an

application accompanied by a memorandum of appeal, and may be allowed to appeal as an indigent person, subject, in all matters, including the presentation of such application, to the provisions relating to suits by indigent persons, in so far as those provisions are applicable.

Rule 3 of the order XLIV provides as under....

3. Inquiry as to whether applicant is an indigent person.- Where an applicant, referred to in rule 1, was allowed to sue or appeal as an indigent person in the Court from whose decree the appeal is preferred, no further inquiry in respect of the question whether or not he is an indigent person shall be necessary if the applicant has made an affidavit stating that he has not ceased to be an indigent person since the date of the decree appealed from; but if the Government pleader or the respondent disputes the truth of the statement made in such affidavit, an inquiry into the question aforesaid shall be held by the Appellate Court, or, under the orders of the Appellate Court, by an officer of the Court.

4. Hon'ble Supreme Court has in its various judgments has held that, the intent of Orders XXXIII and XLIV is unmistakable. They exemplify the cherished principle that lack of monetary capability does not preclude a person from knocking on the doors of the Court to seek vindication of his rights, the poor shall not be priced out of the Justice market by insistence on court-fee and refusal to apply the exemptive provisions of Order 33, CPC.

04. Considering the above legal provisions and settled principle of law, Order XLIV Rule 3(1) provides that no further inquiry would be required in respect of a person who was allowed to sue or appeal as an indigent person if they make an affidavit to the effect that they have not ceased to be an indigent unless the Government pleader

objects or disputes such claim in which case an inquiry shall be held by the Appellate Court or under the orders thereof. In present case, also records reveal that the applicants have preferred suit as indigent persons, wherein the Lr. trial court has made detail inquiry and permit present applicants to sue as indigent persons. Since, then nothing is come on record which suggest that the applicants have ceased to be an indigent person since the date of the decree appealed from. Therefore, present application is required to allow. Hence, pass following order.

Order

- This application is allowed.
- The applicant is permitted to sue as an indigent person against the opponents as provided in Order 33 of C. P. Code of Civil Procedure.
- Registry is directed to register the case as per the law.
- No order as to costs at this stage.

Pronounced in the open Court to-day i.e. on 8th day of May, 2026.

MAHUV A.
DATE : 08/05/2026.

(Atulkumar S. Patil),
2nd ADDITIONAL DISTRICT JUDGE,
AT MAHUVA
CODE NO.GJ00836.

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