

RCS No.161/12
Kisnabai Vs. Suryaprakash

ORDER BELOW EX.80
(Passed on 10/3/17)

Heard counsels for both parties. Perused the plaint. It appears that plaintiff's first prayer is that, "She is an indigent person and further be pleased to grant permission to sue and file suit for partition against the defendant in form of pauperism". On 22/2/2007 the then court decide the application under order 33 Rule 1 of Civil Procedure Code for suing form of pauperism and granted permission to the applicant to sue as form of pauperism.

According to the counsel for defendant, it is required to frame issue whether plaintiff is an indigent person ? Under Order 14 Rule 1(v), "at the first hearing of the suit the court shall after reading the plaint and the written statement, if any and ascertain upon what material proposition of the fact of the law, parties are at variance and shall thereupon proceed to frame and record the issues on which the right decision of the case appears to depend".

In the present matter from the averments in the plaint at the first hearing of the suit the then court has decided application in the year 2007 under Order 33 Rule 1 of Civil Procedure Code. On 14/7/15 the court has framed issues and also evidence affidavit filed by plaintiff on

record on 1/10/2016. Thereafter present application has been moved. In such circumstances, when already the court has granted permission to the plaintiff to sue as form of pauperism, there is no need to frame issue on the point of indigency and no substance found in the submission made by counsel for defendant.

Accordingly application stands rejected.

Umrer.
Dt. 10/3/17.

(Ms.V.R.Jambhule)
Civil Judge(Jr.Dn.), Umrer.