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Constitutionality of Provisions Related to Suit Against an Indigent Person in India: Legal Discourse

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Abstract:

The Code of Civil Procedure (CPC) is the parent law that provides for matters related to procedure for filing of suit in civil cases, i.e. filing of plaint, written statement, the contents of pleadings, the submission of evidence, etc. This paper endeavors to contemplate rule 11 of Order XXXIII of CPC which authorizes revocation of the permission granted to sue as an indigent plaintiff due to non-delivery of summons or non-appearance of the plaintiff when the suit is called on for hearing. It further endeavors to analyze rule 11-A of Order XXXIII of CPC which mandates the Court to order for recovery of Court fees and other litigation expenses from the estate of the deceased plaintiff. The paper concludes that such a review of the provisions related to suit by an indigent person would make the procedure in consonance with the principles of equity and the legal jurisprudence. The paper uses doctrinal method.

Keywords: Indigent person, Court-Fee, Code of Civil Procedure, Welfare State, Special Rules

1. Introduction:

The Code of Civil Procedure (hereinafter 'CPC') is the parent law that provides for matters related to procedure for filing of suit in civil cases, i.e. filing of plaint, written statement, the contents of pleadings, the submission of evidence, etc. It provides for law related to exemption of Court fees and other litigation expenses for an indigent person. This is for the reason that India is a socialist democratic republic wherein State owns, controls and distributes the resources for the welfare of its citizens and in discharge of its negative obligation to protect the fundamental rights of its citizens. Further, the right to constitutional remedies is a fundamental right of every citizen. This paper endeavors to contemplate rule 11 of Order XXXIII of CPC which authorizes revocation of the permission granted to sue as an indigent plaintiff due to non-delivery of summons or non-appearance of the plaintiff when the suit is called on for hearing. It further endeavors to analyze rule 11-A of Order XXXIII of CPC that mandates the Court to order for recovery of Court fees and other litigation expenses from the estate of the deceased plaintiff. The paper affirms that such a review of the provisions related to suit by an indigent person would make the procedure in consonance with the principles of equity and the legal jurisprudence.

2. Who is an Indigent Person?

Order XXXIII of the CPC provides provisions on 'Suits by indigent persons'. Rule 1 to Order XXXIII of CPC states the cases when the suit could be instituted by an indigent person. It states:

'Suits may be instituted by indigent person-

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

Explanation I-

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

(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.'

Rule 1-A to Order XXXIII of CPC further empowers the Court trying the suit to make an inquiry into the whereabouts of the person applied to sue or being sued as an indigent person. This provision is followed by provisions for contents of application for institution of the suit by an indigent person, the presentation of application for the same, the examination of the applicant for the purposes of its claim and the property. Rule 5 of Order XXXIII of the CPC empowers the Court to reject an application for leave to sue as an indigent person.

3. Benefits to an Indigent Person:

Rule 8 to Order XXXIII of the CPC provides the procedure if application for suing as an indigent person is admitted by the Court. It states:

'Procedure when 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.'

Rule 10 to Order XXXIII of CPC¹ provides provisions related to payment of costs where indigent person succeeds in the suit.

4. Liability of an Indigent Person for Payment of Court Fees:

Rule 11 to Order XXXIII of CPC provides that the indigent person is liable to pay the Court fees which would have been paid by him if he was not permitted to sue as an indigent person, when 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 dismissed on certain conditions. The constitutional validity of Rule 11 of Order XXXIII of CPC would be contemplated in this section on the basis of the provisions of CPC and the legal jurisprudence. The text of Rule 11 of Order XXXIII of CPC states:

¹ Rule 10 to Order XXXIII of CPC states: '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.'

Procedure where indigent person fails-

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 dismissed,-

- (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.'

Rule 11 to Order XXXIII of CPC provides that the indigent person is liable to pay the Court fees which would have been paid by him if he was not permitted to sue as an indigent person, when 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 dismissed, in following cases:

- 1. due to non- delivery of summons to the defendant in consequence of the failure of the plaintiff to pay the Court fee or postal charges chargeable-

The person who files the suit for the plaintiff is bound to abide by the provisions related to contents of plaint provided in Rule 1 of Order 7 of CPC. These provisions include specific statement about jurisdiction of the Court, the Court fees annexed, the valuation of the suit, the number of plaintiffs and the number of defendants, etc. Further, Order 7, Rule 11 of the CPC provides the instances which empower the Court trying the suit to reject the plaint. It states:

Rejection of plaint-

The plaint shall be rejected in the following cases:-

- (a) where it does not disclose a cause of action;
- (b) where the relief claimed is under-valued, and the plaintiff, on being required by the Court to so correct the valuation within a time to be fixed by the Court, fails to do so;
- (c) where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the court, fails to do so;
- (d) where the suit appears from the statement in the plaint to be barred by any law;
- (e) where it is not filed in duplicate;
- (f) where the plaintiff fails to comply with the provisions of rule 9:

Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-papers shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-papers, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.'

Rule 11 of Order 7 of CPC provides the failure of plaintiff to comply the provisions of rule 9 of Order 7 of CPC to be one of the grounds for the rejection of plaint. Rule 9 to Order 7 of CPC states:

"Procedure on admitting plaint-

Where the Court orders that the summons be served on the defendants in the manner provided in rule 9 of Order V, it will direct the plaintiff to present as many copies of the plaint on plain paper as there are defendants within seven days from the date of such order along with requisite fee for service of summons on the defendants."

It is pertinent to note that the proviso to sub-rule (3) of rule 9 of Order V of CPC states: "Provided that the service of summons under this sub-rule shall be made at the expenses of the plaintiff." Thus, these provisions

require the plaintiff to submit the copies of the plaint equivalent to the number of defendants and also to deposit the requisite fee for delivery of such summons to the defendants. The application for delivery of summons filed before the Honorable High Court of Chhattisgarh requires affixing of Court fees provided in the Chhattisgarh High Court Rules and Orders 2007 and the process fee for delivery of such summons to the defendants on the basis of weight of the postal envelope. It would be pertinent that an indigent person is exempted from payment of Court fees and the process fees in accordance to the provisions of Order XXXIII of CPC. Rule 8 of Order XXXIII of CPC states:

"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." So, rule 8 of Order XXXIII of CPC purports that if the Court grants permission to sue as an indigent person, it is the State exchequer which becomes liable to deposit the requisite Court fees as well as the fees payable for service of process in order to summon the defendants or the witness for the defendants, as the case may be, and the Counsel for the plaintiff or the plaintiff himself is exempted from payment of any such fees.

The second part of sub-rule (a) of rule 11 of Order XXXIII of CPC states plaintiff to be bound to pay the requisite Court fees as if he had not been permitted to sue as an indigent person in cases where the summons for the defendant to appear and answer has not been served due to failure of the plaintiff to present copies of the plaint or concise statement. Such alleged failure to present copies of the plaint or concise statement is a ground for rejection of the plaint according to sub-rule (f) to rule 11 of Order 7 of CPC. The sub-rule (f) of rule 11 of Order 7 of CPC states the plaint shall be rejected where the plaintiff fails to comply with the provisions of rule 9 of Order 7 of CPC. Rule 9 of Order 7 of CPC requires that the number of copies of the plaint equivalent to that of the number of defendants shall be served through registered post or or by courier services approved by the Court. The proviso to sub-rule (3) of rule 9 of Order V of CPC mandates the payment of expenses for delivery of summons to be made at the expense of the plaintiff.

It is pertinent to note that the provisions of rule 8 of Order XXXIII of CPC specifically exempts the plaintiff from payment of fees payable for service of process in respect of any petition. This provision therefore, includes expenses for delivery of copies of the plaint to the defendants. So, it would be unjust to make the plaintiff liable for payment of Court fees as if he has not been permitted to sue as an indigent person in cases of non-delivery of summons either due to non-payment of Court fee, process fee or non-supply of requisite number of copies of the plaint to the defendant.

(ii) because the plaintiff does not appear when the suit is called on for hearing:

The regular procedure for institution of a suit of civil nature requires filing of a plaint and compliance of procedure for issuance of summons to the defendant in order to show-case the grievance of the plaintiff. Plaint is usually drafted by the Counsel for the plaintiff on his (plaintiff's) instructions and filed by the Counsel for the plaintiff after due verification of signatures and authorization by the plaintiff. However, the plaint could also be drafted by the plaintiff himself and filed by him in the capacity of petitioner-in-person. These stages of filing of plaint and the written statement require appearance of petitioner-in-person or his Counsel when the suit is called on for hearing.

If the plaint is filed before the Court of law by the Counsel or the plaintiff himself in the capacity of petitioner-in-person, then he is bound to appear when the suit is called on for hearing. So, if the plaintiff does not appear, the Court can proceed *ex parte* under the provisions of rule 8 of Order 9 of CPC. Rule 8 of Order 9 of CPC states:

Procedure where defendant only appears-

Where the defendant appears and the plaintiff does not appear when the suit is called on for hearing, the Court shall make an order that the suit be dismissed, unless the defendant admits the claim, or part thereof, in which

case the Court shall pass a decree against the defendant upon such admission, and, where part only of the claim has been admitted, shall dismiss the suit so far as it relates to the remainder.'

Rule 9² of Order 9 of CPC provides that where a suit is wholly or partly dismissed under rule 8, the plaintiff shall be precluded from bringing a fresh suit in respect of the same cause of action, but on showing sufficient cause for his non-appearance when the suit is called on for hearing, the order shall be set-aside on payment of costs or otherwise as the Court thinks fit. But this general provision for setting-aside the order of dismissal of suit is further penalized under rule 11 of Order XXXIII of CPC requiring an indigent plaintiff to pay the Court fees, as if he had not been permitted to sue as an indigent person. Hence, if an indigent person fails to appear as a petitioner-in-person or if his Counsel fails to appear and satisfies the Court for causes of his non-appearance, then the Court has discretion to impose costs or other penalty under the provisions of Rule 9³ of Order 9 of CPC.

It would be pertinent to note that notwithstanding such a general provision, Rule 11 of Order XXXIII of CPC makes the Court bound to set-aside its order granting permission to the plaintiff to sue as an indigent person. The provisions of rule 11 of Order XXXIII of CPC are penal in nature which aims to penalize the plaintiff for his non-appearance considering it to be a willful breach of an obligation irrespective of the bona fides shown by the plaintiff. This provision, therefore, excludes the benefits of restoration of the hearing of the civil suit on compliance of the order passed in accordance with the provisions of rule 9 of Order 9 of CPC. The provision for refusal of permission and the consequent setting-aside of order to sue as an indigent person through the provisions of sub-rule (b) to Rule 11 of Order XXXIII of CPC considers the non-appearance of the plaintiff to be a misuse of:

- (a) the regular procedure of Courts; and
- (b) its grant of the order to sue as an indigent person.

However, it is pertinent to note that such setting-aside of the order which grants permission to sue as an indigent person requires contemplation on following grounds:

firstly, that the petitioner-in-person and the Counsel for the plaintiff are attributes of same capacity when the suit is called on for hearing before the Court of law. So, the benefits and privileges in respect of adjournments of a suit under Order XVII of CPC and restoration of suit under the provisions of Order 9 of CPC available to a Counsel for the plaintiff or the defendant are not subject to any express limitation or exception by any provision of CPC in respect of the petitioner-in-person;

secondly, it would amount to double jeopardy for the petitioner-in-person as well as the Counsel for the plaintiff, if the dismissal of suit for his non-appearance is set-aside under rule 9 of Order 9 of CPC either with or without costs and the Court further deprives him to sue as an indigent person setting-aside the order granting such permissions under rule 8 of Order XXXIII of CPC.

Therefore, in view of these grounds, Rule 11 of Order XXXIII of CPC requires review.

5. Permission to Sue as an Indigent Person Extends Throughout the Suit:

Rule 8 to Order XXXIII of CPC provides that the court fees, the process fee for service of summons, the expenses for appointment of pleaders and for other proceeding connected with the suit shall not impose any pecuniary liability upon the indigent plaintiff. This rule does not provide any time limit for such benefits to an indigent person, so, in the absence of any express bar through the words of the statute, the benefits must extend

² Rule 9 of Order 9 of CPC reads:

'Decree against plaintiff by default bars fresh suit-

- (1) Where a suit is wholly or partly dismissed under rule 8, the plaintiff shall be precluded from bringing a fresh suit in respect of the same cause of action. But he may apply for an order to set the dismissal aside, and if he satisfies the Court that there was sufficient cause for his non-appearance when the suit was called on for hearing, the Court shall make an order setting aside the dismissal upon such terms as to costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit.
- (2) No order shall be made under this rule unless notice of the application has been served on the opposite party.'

³ *ibid.*

throughout the finality of the suit for an indigent person. It would be pertinent to note that rule 11-A of Order XXXIII of CPC provides that in case of death of an indigent plaintiff, the State Government shall be entitled to recover the whole expenses of litigation on behalf of the plaintiff from the estate of the deceased plaintiff, in the same manner as if the indigent plaintiff has not been granted any permission to sue as such. Rule 11-A of Order XXXIII of CPC states:

'Procedure where an indigent person's 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.'

So, rule 11-A is a mandatory provision which obliges the Court to order that the amount of Court-fees which would have been paid by the plaintiff if he has not been permitted to sue as an indigent person shall be recoverable by the State Government from the estate of the deceased plaintiff. This provision must be contemplated on following grounds:

1. Rule 8 of Order XXXIII of CPC provides in general terms that the court fees and other expenses connected with the suit shall be exempted for an indigent plaintiff. It does not contain any express restriction to purport that the permission granted to sue as an indigent plaintiff extends for a particular stage/s of the suit and not till final decision in the suit;
2. Rule 2⁴ of Order XXXIII of CPC requires filing of an application to sue as an indigent person and provides the contents of such an application. Rule 3 of Order XXXIII of CPC provides that the indigent plaintiff shall present such an application before the Court by himself or his authorized agent. Rule 4 of Order XXXIII of CPC empowers the Court to examine the applicant regarding the merits of the claim and the property of the applicant (indigent plaintiff). However, these rules does not provide for any such application by the indigent plaintiff during the course of proceedings of the suit.
3. It is pertinent to note that the Court can reject the application of an indigent person, if he has within two months next before the presentation of the application, disposed of any property in order to be able to apply for permission to sue as an indigent person.⁵
4. Rule 9 of Order XXXIII of CPC provides the conditions for withdrawal of permission to sue as an indigent person. It states:

'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-

- (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.'

It is therefore, certain from the conditions stated in rule 9 that the indigent person continues in that capacity during his life time. So, it would be contrary to withdraw such permission from him through recovery of the Court fees and other expenses from the estate of the deceased indigent plaintiff.

5. Rule 11-A of Order XXXIII of CPC mandates the Court to order for recovery of the Court fees from the estate of the deceased indigent plaintiff, if the suit abates by reason of death of the plaintiff or of any person added as a co-plaintiff. It is pertinent to note that such a provision for recovery of Court fees from the estate of a deceased plaintiff necessarily implies breach of an obligation on the part of the

⁴ Rule 2 of Order XXXIII of CPC states: "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."

⁵ Rule 5 of Order XXXIII of CPC.

indigent plaintiff and is aimed to protect any misfeasance of funds from the State exchequer by an application to sue as an indigent person. However, it would be wrong to penalize a deceased indigent plaintiff because life and death cannot be the tools to commit fraud.

6. Sub-rule (2)⁶ of Rule 3 of Order XXII of CPC confers discretion to the Court stating that, 'on the application of the defendant, the Court may award to him the "costs" which he may have incurred in defending the suit, to be recovered from the estate of the deceased plaintiff'. Therefore, rule 3 of CPC merely entitles the defendant, on application, to recover the "costs" of the suit and the Court is not bound to order for such recovery of the costs of suit. However, rule 11-A of Order XXXIII of CPC mandates the Court to recover 'Court fees and all other expenses' exempted for an indigent plaintiff by the inclusive ambit stated in rule 8 of Order XXXIII of CPC'. It is pertinent that the State is not a private litigant and it sues the plaintiff, even in capacity of the defendant, merely to show case the legal propriety of the rights and claims of the plaintiff. So, the State must not be relegated to the status of a private defendant. Further, India is socialist democratic welfare State which aims for good governance for the welfare of its citizens under article 38 to the Constitution of India. The entitlement to sue as an indigent person is a 'welfare measure' of the State. Hence, it could be arbitrary to entitle the State to recover the expenses more than that is entitled to a private defendant from the estate of a deceased indigent plaintiff.

Therefore, on the basis of these rationales, the legal propriety of rule 11-A of Order XXXIII of CPC is determinable.

6. Conclusion:

Justice Holmes stated, 'A word is not crystal, transparent and unchanged. It is the skin of the living thought and it may vary greatly in colour and content according to the circumstances and the time in which the word is used.'⁷ Order XXXIII of CPC provides provisions for suit by an indigent person. These provisions confer indispensable judicial relief in the form of exemption from Court fees, process fees, fees for appointment of a Counsel and other matters connected with the suit. Rule 11-A of Order XXXIII of CPC provides the instances where an indigent person is obligated to deposit the Court fees as if he had not been permitted to sue as an indigent person. This provision needs to be reviewed on the basis of grounds that the failure to deposit Court fees or process fees causing non-delivery of summons to the defendant is not the obligation of an indigent plaintiff rather rule 8 of Order XXXIII of CPC exempts him from payment of any such litigation expenses. Rule 11-A of Order XXXIII of CPC also confers authority to the Court to revoke the permission granted to sue as an indigent plaintiff if the plaintiff does not appear when the suit is called on for hearing. This provision requires review because such non-appearance could be adjudged by the Court under rule 9 of Order 9 of CPC and the suit can be restored either with or without costs, so, it would be unfair to penalize the indigent plaintiff twice. Order 9 of CPC is a specific provision that provides for 'appearance of parties and consequences of non-appearance', so it is not necessary to draw any exceptions to such special provision in case of the suit by an indigent person.

This paper further endeavors to state that India is a welfare State, so the State must not mandate recovery of 'Court -fees and other expenses' incurred, in lieu of the grant of permission to sue as an indigent plaintiff, from the estate of the deceased plaintiff. This averment is stated on the basis of premise that State is not a private defendant when it grants permission to sue as an indigent person and allows its treasury to disburse the Court fees and all other litigation expenses covered by rule 8 of Order XXXIII of CPC. Such exemption from Court fees and other litigation expenses is a welfare measure of the Government of India and is even not liable to be

⁶ Rule 3 of Order XXII of CPC states:

'Procedure in case of death of one of several plaintiff or of sole plaintiff'

(1) Where one of two or more plaintiffs dies and the right to sue does not survive to the surviving plaintiff or plaintiffs alone, or a sole plaintiff or sole surviving plaintiff dies and the right to the sue survives, the Court, on an application made in that behalf, shall cause the legal representative, of the deceased plaintiff to be made a party and shall proceed with the suit.

(2) Where within the time limited by law no application is made under sub-rule (1), the suit shall abate so far as the deceased plaintiff is concerned, and, on the application of the defendant, the Court may award to him the costs which he may have incurred in defending the suit, to be recovered from the estate of the deceased plaintiff.'

⁷ <https://www.iilsindia.com/blogs/golden-rule-of-interpretation/> (last visited 26.07.2022).

construed within the expression 'costs' of the suit under Rule 3 of Order XXII of CPC. It is pertinent to note that these are the provisions of British regime.

It is imperative that rule 1 of Order XXXIII of CPC requires possession of property worth less than one thousand rupees in order to get permission for entitlements of an indigent person. The value of one United States Dollars (hereinafter 'USD') in the year 1947⁸ was equivalent to one Indian National Rupee (hereinafter 'INR') whereas 1 USD is equivalent to 83.00 INR on 25.10.2022 (Reserve Bank of India reports). This shows sharp devaluation of INR from the years before independence till today. Consequently, the devaluation of Indian rupee to approximate 0.01 USD in the year 2022 purports one thousand rupee would equal to ten USD. It would be pertinent to note that 1000 INR was equivalent to 1000 USD in the year 1947 or more in the year 1908 when the CPC was enacted. Therefore, in light of contemporary devaluation of rupee, it is imperative that the person who possesses property less than rupees one lakh (equivalent to one thousand USD) shall be entitled for benefits accorded to an indigent person. So, sub-rule (b) of Explanation I to rule 1 of Order XXXIII of CPC requires review.⁹

Order XXXII, Rule 2-A, sub-rule (2)¹⁰ of CPC requires an indigent person to deposit the Court-fees in the form of security when a suit is filed by or against minors and persons of unsound mind. This provision is lucidly abhorrent to rule 8 of Order XXXIII of CPC¹¹ which exempts the deposit of Court-fees for an indigent person (whether a minor or a person of unsound mind).¹²

Therefore, in view of these arguments, sub-rule (2) to Rule 2-A of Order XXXII of CPC, rule 11 and rule 11-A of Order XXXIII of CPC needs to be reviewed and expunged in the interests of justice and the principles of equity.¹³ Such a review would further require review of rules 12,¹⁴ 13¹⁵ and 14¹⁶ of Order XXXIII of CPC which provides the procedure to recover such Court fees and other litigation expenses for the State Government. This is because Sir Paton observed, 'Law is the product of human reason and is intimately related to the notion of purpose_... An analysis of the judicial method shows that law is not a body of rules, but an organic body of principles with an inherent power of growth.'¹⁷

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⁸ It is imperative to note that on **15th August 1947** the exchange rate between Indian rupee and US Dollar was equal to one (i.e., 1 \$= 1 Indian Rupee);

⁹ Sir Friedmann writes in his *Legal Theory* (1967): This is for the reason that 'Every legal system is oriented towards certain purposes which it seeks to implement. In this sense, every legal system is of necessity a "purposeful enterprise".'

¹⁰ Sub-rule (2) to rule 2-A of Order XXXII of CPC reads: 'Where such a suit is instituted by an indigent person, the security shall include the Court-fees payable to the Government.'

¹¹ see *Supra* section on 'Benefits to an indigent person'.

¹² Here the following observation by Lord Reid is worth quotable, 'If the language is capable of more than one interpretation, we ought to discard the more natural meaning if it leads to an unreasonable result, and adopt that interpretation which leads to a reasonably practicable result.' see *Gill v. Donald Humberstone and Co. Ltd.*, [1963] 1 W.L.R. 929, at p. 934.

¹³ Sir Dicey stated, '... it is still true to-day as a proposition of the law of the United Kingdom to say that Parliament has the right to make or unmake any law whatever.'

¹⁴ **'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.'

¹⁵ **'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 deemed to be questions arising between the parties to the suit within the meaning of section 47.'

¹⁶ **'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 of land revenue.'

¹⁷ Sir Henry Maine stated '...the sign of a progressive human society is whether law keeps on growing after its codification'.

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