

Application of Order XXXIII of the Code, principles :

- (i) It is an enabling provision for filing of a suit by an indigent person without paying the court fee at the initial stage.
- (ii) If the suit is decreed for the plaintiff, the court fee would be calculated as if the plaintiff had not originally filed the suit as an indigent person. The said amount is recoverable by the State in accordance with who may ordered to pay the same in the decree.
- (iii) Even when a suit is dismissed, the court fee shall be recoverable by the State in the form of first charge on the subject-matter of the suit.

It was further held that -

“20...So there is only a provision for the deferred payment of the court fees and this benevolent provision is intended to help the poor litigants who are unable to pay the requisite court fee to file a suit because of their poverty.”

Union Bank of India v. Khader International Construction & Ors. (2001) 5 SCC 22