

Concept of an indigent person :-

“16. The concept of indigent person has been discussed in Corpus Juris Secundum (20 CJS Costs § 93) as following:

“§ 93. What constitutes indigency.-The right to sue in forma pauperis is restricted to indigent persons. A person may proceed as poor person only after a court is satisfied that he or she is unable to prosecute the suit and pay the costs and expenses. A person is indigent if the payment of fees would deprive one of basic living expenses, or if the person is in a state of impoverishment that substantially and effectively impairs or prevents the pursuit of a court remedy. However, a person need not be destitute. Factors considered when determining if a litigant is indigent are similar to those considered in criminal cases, and include the party’s employment status and income, including income from government sources such as social security and unemployment benefits, the ownership of unencumbered assets, including real or personal property and money on deposit, the party’s total indebtedness, and any financial assistance received from family or close friends. Not only personal liquid assets, but also alternative sources of money should be considered.”

17. The eligibility of person to sue in forma pauperis has been considered in American Jurisprudence (20 Am Jur 2d Costs § 100) as thus:

“§ 100. Eligibility to sue in forma pauperis; generally.-The burden of establishing indigency is on the defendant claiming indigent status, who must demonstrate not that he or she is entirely destitute and without funds, but that payments for counsel would place an undue hardship on his or her ability to provide the basic necessities of life for himself or herself and his or her family. Factors particularly relevant to the determination of whether a party to a civil proceeding is indigent are: (1) the party’s employment status and income, including income from government sources such as social security and unemployment benefits; (2) the ownership of any unencumbered assets, including real or personal property and monies on deposit; and finally (3) the party’s total indebtedness and any financial assistance received from family or close friends. Where two people are living together and functioning as a single economic unit, whether married, related, or otherwise, consideration of their combined financial assets may be warranted for the purposes of determining a party’s indigency status in a civil proceeding.”

Mathai M. Paikeday v. C.K. Antony (2011) 13 SCC 174