**APPLICATION UNDER SECTION 96 C. P. C.**

IN THE COURT OF THE DISTRICT JUDGE....................

Civil Appeal No..................... of 19....................

u/s. 96 C. P. C.

C. D................................................... Plaintiff/Appellant

*versus*

C. F............................................. Defendant/Respondent

Sir,

The appeal of the Plaintiff/appellant against judgment and decree of the learned Civil Judge..................... decreeing the suit of the plaintiff in part as to the realisation of the principal amount due and rejection of the claim for interest, is being preferred against the part of rejecting the claim of interest only on the following grounds:

Valuation of the suit— Rs.....................

Valuation of Appeal— Rs..................

Valuation of part of

decree appealed against— Rs.....................

Court fee paid— Rs.....................

**GROUNDS OF APPEAL**

1. Because the Court has no discretion as to whether *pendente lite* interest should be granted or not. The Court is bound to grant such interest. The Court has discretion only as to rate of interest. The learned Court below has erred in law in not allowing *pendente lite* interest to the appellant.

2. Because before filing of the suit, the appellant is entitled to receive contractual rate of interest, which the learned trial Court has prejudicially disallowed.

3. Because even after the decree the plaintiff/appellant is entitled to receive interest till the date of realisation of the principal amount with interest due. RELIEF CLAIMED:

The relief claimed by way of this appeal is that the appeal may be allowed by setting aside the part of decree of the Court below not granting any interest and allowing the interest to the appellant according to law.

Appellant

Dated.......... 19........... through Counsel

My *vakalatnama* is on the record of the trial Court, as such no fresh *vakalatnama* is being filed with this memo of appeal.

Counsel for Appellant

**MANAGEMENT OF TRUST**

An application under section 34 of the Trusts Act, 1882 cannot be treated as suit under section 92 of Civil PC, as the said application does not satisfy the requirements of section 92 of Civil P. C.1

***Section 96 CPC***

**PARTITION-SEPARATION OF MESS AND BUSINESS**

In partition suit separation of properties in mess and business cannot be treated as proof of complete partition.2

**CONCURRENT FINDINGS**

***Section 96 and 100***

If the appellate Court does not advert to the reasonings given by the original Court and writes an independent judgement on the basis of the materials on record and if the second appellate Court finds the same judgement to. be proper on the basis of the materials, then on the ground that the reasonings given by the original Court had not been considered by the appellaate Court, cannot be a point for reversing the appellate Court’s judgement as required under section 100.3

1. Trustees of HEH the Nizam’s Pilgrimage Money Trust v. Commissioner of Income-Tax, AIR 2000 SC 1802.

2. Dinanath Yadav v. Smt. Kusum Devi, 2000 (4) CCC 429 (Pat. )

3. Girija Singh v. Gaynwanti Devi, AIR 2001 Patna 20.