

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL REVISION APPLICATION NO.115/2017

Smt. Suman Rambhau Jare

..Vs..

Sau. Dayalini Santosh Sharma and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Alok Daga, Advocate for non-applicant Nos.1 and 2.

CORAM : Z.A. HAQ, J.

DATED : 21.8.2019.

None appeared for the applicant in the morning session. Matter was kept back. In the afternoon session again none appears for the applicant.

Shri Alok Daga, Advocate appearing for the non-applicant Nos.1 and 2 submitted that the impugned order is appealable under Section 96 of the Code of Civil Procedure inasmuch as the order rejecting the plaint under Order 7 Rule 11 of the Code of Civil Procedure is “decree” within the meaning of Section 2(2) of the Code of Civil Procedure. To support the submission, learned Advocate for the non-applicant Nos.1 and 2 has relied on the judgment given by the Hon'ble Supreme Court in the case of *Shamsher Singh V/s. Rajinder Prashad and others* reported in **AIR 1973 SC 2384**, judgment given by this Court in the case of *Sanjay Purushottam Agrawal and another V/s. Nirmaladevi Shantilal Ruparela and others* reported in **2004 (3) Mh.L.J. 363** and the judgment given by Jammu and Kashmir High Court in the case of

Abdul Rashid Rather V/s. Ghulam Ahmad Ganai reported in **AIR 2011 Jammu and Kashmir 29**.

2] Accepting the submission made by learned Advocate for the non-applicant Nos.1 and 2, civil revision application is **dismissed** with liberty to the applicant to file appeal under Section 96 of the Code of Civil Procedure, if so advised. In the circumstances, the parties to bear their own costs.

JUDGE

Tambaskar.