

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

WRIT PETITION NO.694 OF 2019

(RAJNI SHASHIKANT GAJRE...VS.. SMT. ASHABAI SUBHASH PATIL)

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

Court's or Judge's orders

Shri Nitin Lambat, Advocate for Petitioner.

CORAM : Z.A.HAQ, J.

DATED : FEBRUARY 01, 2019.

Heard.

The original defendant has challenged the order passed by the trial Court by which the application (Exh.87) filed by him praying that the civil suit filed by the respondent be dismissed, is rejected. The civil application does not specify the provision under which the defendant moved the application. The learned advocate for the petitioner/defendant has not been able to point out the provision under which the plaint can be dismissed summarily without affording opportunity to the plaintiff to prove his case. Even if it is considered that the application is under Order VII Rule 11(d) of the Code of Civil Procedure, the plaint cannot be rejected on the ground that the cause of action as pleaded by the plaintiff has ceased to continue. Under Order VII Rule 11(d) of the Code of Civil Procedure the plaint can be rejected if it does not disclose the cause of action and it is not the contention of the defendant that the plaint does not disclose cause of action.

In view of the above, it cannot be said that the learned trial Judge has committed any illegality or error of jurisdiction by rejecting the application filed by the petitioner. I see no reason to interfere with the impugned order.

The writ petition is **dismissed**. No costs.

JUDGE

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