

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

CIVIL REVISION APPLICATION NO. 64 OF 2019

Shriniwas Ravindra Vajpayee __ Vs. __ Sapna Santoshkumar Agrawal

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

Court's or Judge's orders

Mr. Rani Nitnaware, Advocate h/f Mr. O.Y.Kashid, Advocate for the applicant
Mr. V.G.Lohiya, Advocate for non-applicant.

CORAM : AVINASH G. GHAROTE, J.
DATE : 30/06/2023

1] Heard Ms. Nitnaware, learned counsel for the applicant.

2] The application challenges the order dated 27.4.2016 by which the application under Order 7 Rule 11(a) of the CPC as filed by the present applicant has been rejected on the ground that the question needs to be considered at the stage of trial.

3] It is contended that there was no cause of action whatsoever for filing of the suit, as the respondent no.1 was a party to RCS No. 376/2009 which has been decided and therefore would have operate as *res judicata* in the present proceedings.

4] It is material to note that a plea under Section 11 of the CPC is not one which is entertainable under Order 7 Rule 11(a) of the CPC, considering which no ground is made out for

interference.

4] That apart, para 13 of the plaint (pg.24) indicates the cause of action is also based upon the filing of the judgment and decree by the present applicant in RCS No.332/2009 on 27.2.2014, which would disclose the existence of cause of action. In that light of the matter, I am not inclined to interfere in the impugned order. The revision is therefore dismissed. No costs.

JUDGE

Rvjalit