

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**NAGPUR BENCH, NAGPUR****CIVIL REVISION APPLICATION NO.106/2007****Amritlal s/o Morarjibhai Parmar and another****...Versus...****Shri Gurjar Kshatriya Samaj, Gondia through its President and others**

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

Court's or Judge's orders

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(Shri Ishwarchand Choudhari, Adv. for
applicants)

CORAM :- A.B. Chaudhari, J.**DATED :- 31.10.2007**

Heard learned Counsel for the applicants

What is under challenge is an order made below Exh.32 and 35 by the Trial Court, rejecting application for rejection of plaint under Order 7 Rule 11 of the Code of Civil Procedure.

The learned Counsel for the revision applicants argued that an order was made by the Trial Court on 22.8.2007, by which application (Exh.5) was allowed and the said suit is pending. Learned Counsel for applicants therefore argued that in the wake of the said order holding field, second suit could not have been filed and, therefore, there is no cause of action. He then argued that under Section 41 (a) of the Specific Relief Act, the Court cannot pass any order prohibiting the other authority or Court from

entertaining or continuing the proceedings.

Having heard learned Counsel for the applicants in the first place it will have to be seen that order dated 22.8.2007 was an interim order below Exh.5. The interim order or interlocutory order do not constitute res judicata as canvassed by the learned Counsel. The lis is still pending in the Court. In so far as second contention is concerned that by itself cannot be a ground to reject the plaint though the same can be a good ground to defend the suit.

In view of this, I do not find any substance in the Civil Revision Application. The same is dismissed. No order as to costs.

JUDGE

SSW