

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

Writ Petition No.2525 of 2016

(Ravi s/o Bhagwan Patre v. RTM Nagpur University, Nagpur, through its
Registrar and others)

And

Writ Petition No.3250 of 2016

(Mrs. Ushakiran w/o N.K. Dwivedi v. RTM Nagpur University, Nagpur,
through its Registrar)

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

Shri K.P. Kanugo, Advocate for Petitioners.

Shri Ranjit Bhuibhar, Advocate for Respondent No.1.

Coram : R.K. Deshpande, J.

Date : 21st November, 2016

The Court of Small Causes passed an order of return of plaint under Order VII, Rule 10 of the Code of Civil Procedure for presentation before the proper forum. The lower Appellate Court has held that such a jurisdiction lies with the Court of Small Causes under Section 23(1) of the Provincial Small Cause Courts Act, 1887. Against this order, the present petition has been preferred.

It is not in dispute that the Court of Small Causes has no jurisdiction to entertain, try and decide the suit, which relates to removal of encroachment and possession of suit property. Though the provision of Order VII, Rule 10 of the Code of Civil Procedure are not applicable in such a situation, the provision of

Section 23(1) of the Provincial Small Cause Courts Act is very relevant, which empowers the Court of Small Cause to return the plaint for presentation before the proper forum. The lower Appellate Court has taken such a view, which does not call for interference.

The petitions are dismissed.

Judge.

Lanjewar