

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

WRIT PETITION NO. 5252 OF 2022

Smt. Sarita w/o Mahendra Mishra
Vs.
Manish s/o Ramesh Shukla and others

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

Court's or Judge's orders

Mr. R. A. Gupte, Advocate for petitioner.

CORAM : AVINASH G. GHAROTE, J.
DATE : 29/08/2022

1. Heard Mr. Gupte, learned counsel for the petitioner.
2. The petition challenges the order dated 19.7.2022 whereby an application filed by the petitioner under Order 1 Rule 10(2) of the CPC has been rejected.
3. Mr. Gupte, learned counsel for the petitioner submits that the petitioner is in possession of a store room on the South- West corner of the property as shown in plaint map (pg. 82) and since a relief is sought in the plaint regarding the store room also (pg.41), based upon his statement, that the defendants have in the written statement admitted the position that the store room is in occupation of the present petitioner, is a proper and necessary party and the impugned order is required to be quashed and set aside.
4. There is admittedly no document to show that the petitioner was ever placed in possession of the

store room at any point of time. A perusal of the written statement of the original defendant nos.1 and 2 does not indicate any averment therein as claimed that the petitioner was / is in possession of the store room.

5. That being the position, there is no plea set forth to indicate that the suit cannot be decided without the presence of the petitioner. I therefore, do not find any reason to interfere in the impugned order.

6. The petition is accordingly dismissed. No costs.

JUDGE

Sarkate