



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

WRIT PETITION NO.7654 OF 2023

[Hanumanta Maroti Kampelwar .Vs. Shantabai Krishnamurthy Tripathi
(Since deceased) thr her LRs.]

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

Court's or Judge's order

Mr J. K. Matala, Advocate for Petitioner.

Mr R. M. Sharma, Advocate for LR's of Respondent.

CORAM : **AVINASH G. GHAROTE, J.**

DATE : **28th NOVEMBER, 2023.**

. Heard Mr Matala, learned counsel for petitioner.

2. The petition questions the order dated 08.09.2023 passed by the learned Small Causes Court rejecting the Application, below Exhibit – 180, filed by the present petitioner/defendant in R.C.S. No.514 of 1996 for grant of permission to issue summons to the witnesses named therein (Page 99). It cannot be disputed, that the Small Causes Court has no power to determine the question of title. In the instant case, it is not disputed by the present petitioner that he was a tenant of Ramabai Ramnath Dixit occupying two rooms on rent. A Court of competent jurisdiction, in R.C.S. No.1528 of 1994, by its judgment dated 30.01.2017 has framed issues one and two as to whether the present respondent Smt. Shantabai Krishnamurthy Tripathi was the legal heir of deceased

Ramabai and whether she had become the owner of the suit house, where the present petitioner is a tenant on the basis of the Will executed by Ramabai, both of which have been answered in the affirmative (Page 59). Though the judgment dated 30.01.2017 is in challenge under appeal, that would not permit the present petitioner to question the finding rendered therein by seeking to examine witnesses in the present proceedings before the learned Small Causes Court to discredit the finding rendered in R.C.S. No.1528 of 1994.

3. In that view of the matter, I do not see any illegality in the impugned order dated 08.09.2023 passed by the learned Small Causes Court. The petition is, therefore, dismissed with no order as to costs.

JUDGE