

(1968) 04 MP CK 0003
In the Madhya Pradesh High Court
Case No : C.R. No. 463 of 1966

Poonamchand

APPELLANT

Vs

Ramprasad and another

RESPONDENT

Date of Decision : 27-04-1968

Acts Referred:

Provincial Small Cause Courts Act, 1887 — Section 16

Citation : (1968) MPLJ 698

Hon'ble Judges : P.V. Dixit, C.J.; S.B. Sen, J

Bench : Division Bench

Advocate : S.D. Sanghi, for the Appellant; H.K. Maheshwari for non-applicant No. 1, for the Respondent

Judgement

S.P. Bhargava, J.

The reference made to a Division Bench by the learned single Judge in this case on 30-1-1968 has been answered by the Division Bench on 3-4-1968. The Division Bench has expressed the opinion that the decree passed by the Civil Judge, Class II, Mhow after trying the suit on the regular side, is without jurisdiction and a nullity as at the time of the institution of the suit there existed another Court, namely, the Court of the Second Additional District Judge, Indore, which was competent to exercise small cause powers and jurisdiction within the same local limits. The said decree which was confirmed on appeal by the Second Additional District Judge, Indore, on 25-6-1966, has therefore to be set aside and in view of the opinion expressed by the Division Bench, I direct that the plaint shall be returned to the Plaintiff for presentation to the proper Court under Order 7, Rule 10, Code of Civil Procedure. The decree which was passed by the Civil Judge Class II, Mhow, on 19-9-1964 and which was confirmed by the Second Additional District Judge, Indore, on 25-6-1966 is set aside. There shall be no order as to costs.

Plaint returned for presentation to proper Court.