

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.372 of 2014

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Ajesh Kumar Bhatt

.... Petitioner/s

Versus

Ved Prakash Rai & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Phulendra Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

- 2 07-12-2015 1. Heard the learned counsel for the petitioner.
2. By the impugned order dated 12.07.2013 passed by Sub Judge III, Aurangabad in Title Suit No.50 of 2007 / 156 of 2011, the Court below has rejected the application filed by the defendants petitioner seeking permission to file counter claim in view of Order VIII Rule 6A CPC.
3. The learned counsel, Mr. Fulendra Kumar, for the petitioner relied upon the decision of the Hon'ble Supreme Court in the case of *Mahendra Kumar Vs. State of Madhya Pradesh 1987 (3) SCC 265* submitted that there is no bar to file counter claim after the filing of the written statement.
4. Perused the impugned order. Admittedly, in this case written statement was filed as far as back in the year 2008.

Subsequently, after filing this written statement by the defendant, the occurrence took place on 7.4.2013 and, therefore, the petitioners filed counter claim claiming a relief that the petitioners may be compensated for the damage caused by the plaintiff because of the occurrence dated 7.4.2013.

5. The Hon'ble Supreme Court referred to above at paragraph 15 has held that **'it is settled law that no doubt counter claim can be filed after filing the written statement but for that purpose, cause of action must be accrued to the defendant from the date of filing the suit till the written statement is filed.'**

6. Admittedly, the cause of action here accrued on 7.4.2013, i.e., 5 years after the filing of the written statement. In such view of the matter, I do not find any reason to interfere with the impugned order and thus this writ application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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