

IN THE HIGH COURT OF PUNJAB AND HARYANA, CHANDIGARH

Sr.No. 224 CR-2988-2014(O&M)
Decided on: 01.05.2015

Kundan SinghPetitioner

VS

Gurmit Singh and othersRespondents

CORAM HON'BLE MR. JUSTICE K.KANNAN

Present Mr. Munish Gupta, Advocate for the petitioner.

Mr. Deepak Verma, Advocate for respondent no.1.

K.KANNAN, J

The counter claim which is sought to be filed after the written statement is filed was declined on the ground that such permission cannot be granted after the statement was filed. The decision is erroneous. The point has been squarely answered by the Supreme Court in **Rohit Singh and anohter v. State of Bihar 2006(12) SCC page 734**. All that necessary is that it shall be filed before the settlement of issues and closure of evidence. In this case, the issues have been framed only after the dismissal of the plea brought by the defendant.

The counsel appearing on behalf of the respondent has an objection that counter claim cannot be with reference to the very same relief which the plaintiff has asked. He would also object that the nature of counter claim which is sought to be brought is not disclosed. Ideally the nature of counter claim should have been set forth along with the application seeking for permission to bring such a counter claim but if it is not being done, I will not take it as so fundamentally a flaw to deny the right. It is irrelevant that the defendant seeks for the very same prayer of that the petitioner claims in his relief of injunction. The Court will decide who is entitled to such relief amongst competing claims and will render an adjudication on the basis of evidence.

The order is set aside and the counter claim shall be permitted to file within a period of four weeks' from the date of receipt of copy of the order.

Needless to state that the plaintiff will have a right to file a reply

to the counter claim and all the trapping under Order 6 CPC will apply for the completion of the pleadings for disposal of the suit in accordance with law.

Civil Revision is allowed in the above terms.

01.05.2015**mamta****(K.KANNAN)****JUDGE**