

CR No. 6772 of 2013(O&M)

Date of Decision: December 03, 2015

Harbans Lal & others

...Petitioners

vs.

Diwan Singh

.... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: None for the petitioners.

Mr. Pardeep Kumar, Advocate
for the respondent.

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh J.(Oral)

Impugned in the present revision is the order dated 16.09.2013 (Annexure P-5) passed by learned Civil Judge (Junior Division), Kharar vide which an application filed by the defendant for amendment of the written statement so as to make counter claim to pray for mandatory injunction directing the plaintiff to close the alleged door at point 'D' which opens towards the site of the defendants towards point A to A-1 as shown in the site plan attached with the written statement was dismissed.

At the time of arguments none has appeared on behalf of the petitioner. However, counsel for the respondent appeared.

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:2:

I have heard learned counsel for the respondent and considered the case of the revisionist and also gone through the file carefully.

The lower Court has observed that by way of amendment the defendant wants to make a counter claim.

In this case written statement was filed on 03.06.2010 and application for amendment of the written statement by way of counter claim was filed on 07.03.2013 when the case was fixed for evidence of defendant. Defendants have already availed three opportunities to produce their defence evidence. The lower Court has observed that under Order 8 Rule 6-A of the Code of Civil Procedure the counter claim can be filed either before the defendant has delivered his defence or before the time limited for delivering his defence has expired.

In this case the said time has already expired. Now the case is almost ripe. Therefore, no counter claim can be allowed at this case.

There is no illegality in the impugned order.

Accordingly, the revision stands dismissed.

December 03, 2015
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(KULDIP SINGH)
JUDGE