

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9203 of 2015

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Union Of India

.... Petitioner/s

Versus

Dharmendra Singh

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 12-04-2016

Heard learned counsel Mr. Anil Singh for the petitioner.

This application under Article 227 of the Constitution of India has been filed by the plaintiff-petitioner for setting aside the order dated 09.07.2012 passed by Subordinate Judge-I, Katihar in Money Suit No.08 of 2008 whereby the court below rejected the application filed by the petitioner under Order 8 Rule 6 (c) of the Code of Civil Procedure praying for rejection of the counter claim filed by the defendant.

It appears that the plaintiff-petitioner filed money suit against the defendant. In the said money suit the defendant also filed counter claim. The application was filed by the plaintiff-petitioner praying for rejection of the counter claim alleging that if at all the defendant has got any claim, a separate suit can be filed by him but counter claim cannot be entertained in this writ application.

The Hon'ble Supreme Court in **A.I.R. 1996 Supreme Court 2222 (Jag Mohan Chawla and another Vs. Dera Radha Swami, Satsang and others)** interpreted Order 8 Rule 6(c) of the Code of Civil Procedure and has held that the counter claim need not relate to or be connected with the original cause of action or matter pleaded by the plaintiff. The words "any right or claim in respect of a cause of action accruing with the defendant" would show that the cause of action from which the counter-claim arises need not necessarily arise from or have any nexus with the cause of action of the plaintiff. Therefore, as has been held by the Supreme Court the defendant can claim any right by way of counter claim in respect of any cause of action accrued to him even though it is independent of the cause of action averred by the plaintiff and had the same cause of action adjudicated without relegating the defendant to file a separate suit.

In view of the above proposition of law, I do not find any reason to interfere with the impugned order. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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