

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.449 of 2016**

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Nand Kishore Singh & Anr

.... Appellant/s

Versus

Ramdeo Sahu & Anr

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Jagdish Prasad Singh

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

2 08-08-2016 Heard the learned counsel for the petitioner.

Perused the order dated 18.05.2016 passed in Title Suit No.96
of 2002.

Admittedly, the written statement has been filed by the
petitioner in the year 2005. Subsequently, by way of amendment,
counter claim has been filed by the petitioner on the ground that
subsequently in the year 2010, the plaintiff has dispossessed the
defendant petitioner.

In view of the amendment application, it is admitted fact that
cause of action arose in 2010. Under Order 8 Rule 6A provides that
**‘a defendant in a suit may, in addition to his right of pleading a
set-off under rule 6, set up, by way of counter-claim against the
claim of the plaintiff, any right or claim in respect of a cause of
action accruing to the defendant against the plaintiff either
before or after the filing of the suit but before the**

defendant has delivered his defence or before the time limited for delivering his defence has expired, whether such counter-claim is in the nature of a claim for damages or not.’

In view of this provision cause of action must arise prior to filing of defence. The learned Court below has rightly rejected the counter claim filed by the petitioner by way of amendment in the written statement.

I, therefore, find no reason to interfere with the impugned order in exercise of supervisory jurisdiction.

Accordingly, this Civil Misc. Application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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