

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 2094 of 2022

Date of Decision: 25.05.2022

Prem Chand and Others

... Petitioner(s)

Versus

Dharam Pal and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Akshay Jain, Advocate
for the petitioner(s).

Anil Kshetarpal, J.

1. The defendant No.2 to 12 assail the correctness of the order dated 04.02.2022, passed by the trial Court while refusing them permission to file counter-claim.

2. The plaintiffs claim ownership on the basis of a judgment and decree dated 05.08.1991. The petitioners while filing the written statement have already asserted that Sh.Gulla Ram never suffered a Civil Court decree dated 05.08.1991 in Civil Suit No. 2181 of 1990 in favour of the plaintiffs and the said decree is wrong, illegal and against the law and facts. In the first round, the Civil Court dismissed the suit. The First Appellate Court, after re-appreciating the evidence, has found that the trial of the case is seriously prejudiced as no distinct issue on the validity and the correctness of the judgment and decree dated 05.08.1991 has been framed. Now, the suit is pending for re-trial as ordered by the First Appellate Court. The petitioners

Wish to file a counter-claim at this stage in order to lay challenge to the

validity of the judgment and decree dated 05.08.1991. Firstly, this Court is of the view that there is no necessity to specifically challenge the judgment and decree by filing a counter-claim particularly when in the written statement, the aforesaid stand has elaborately been taken. Secondly, there is no concept of challenging a judgment and decree under the Specific Relief Act, 1963. The defendants are not a party to the aforesaid decree. In such circumstances, it is sufficient for them to claim that such decree is not binding on their rights while filing the written statement. Thirdly, the application for permission to file counter-claim, at this stage, cannot be allowed in view of Order VIII Rule 6A(1) CPC.

3. With the observations made above, the present revision petition is disposed of.

(Anil Kshetarpal)
Judge

May 25, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No