

Ct. No. 652
31.07
2023
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C.O. 464 of 2018
Raymani Tudu & Ors.
-Versus-
Srinath Sautal & Ors.

Mr. Debabrata Roy
Ms. Karabi Roy
Ms. Sarbani Mukherjee
Mr. Soumik Mandal **...For the Petitioners**

A copy of service of notice upon the learned Counsel appeared on behalf of the opposite parties filed by the petitioners is taken on record.

In spite of service, opposite parties are not represented.

This application has been filed by the petitioner against an order being No. 38 dated 30th November, 2017 passed by the learned Civil Judge (Senior Division), 2nd Court at Hooghly in Title Suit No. 223 of 2012. By the impugned order the learned Court below refused to accept the counter-claim filed by the defendants / petitioners herein.

Petitioners' contention is that the opposite parties herein as plaintiffs filed a suit for declaration of title, partition, injunction and for other consequential reliefs against the petitioners herein. The petitioners herein entered appearance in the said suit and filed written statement along with a counter claim. The plaintiffs / opposite parties filed an application on 7th November, 2017 inter alia praying for an order rejecting the counter-claim as the valuation of the counter-claim is below the pecuniary jurisdiction of the learned Court below. Petitioners herein contested the said application by filing written objection. Learned Court below by the impugned order refused to accept the counter-claim

filed by the petitioners on the ground that pecuniary jurisdiction of the Court below starts from Rs. 60,000/- but the valuation of counter-claim is only Rs. 100/- which is below the pecuniary jurisdiction of the Court, so counter-claim is not maintainable and thus rejected.

Mr. Roy, learned Counsel appearing on behalf of the petitioners submits that the Court below erred in allowing the plaintiffs petition without considering the fact that the Court below has jurisdiction to try and entertain the counter claim which is valued even less than Rs. 60,000/-.

I have considered submissions made on behalf of the petitioners. It appears that the plaintiffs / opposite parties herein filed the aforesaid Title Suit being No. 223 of 2012 and the suit is valued at Rs. 1 lakh and as such has been correctly filed before the learned Civil Judge (senior Division) who has got the pecuniary jurisdiction to try the suit. On perusal of the written statement-cum-counter claim it appears that the defendants have valued the counter claim at Rs. 100/-.

Proviso to Rule 6A of Order VIII only restricts that such counter claim shall not exceed the pecuniary limits of the jurisdiction of the Court. Section 6 of the Code of Civil Procedure provides :-

“6. Pecuniary jurisdiction.—Save in so far as is otherwise expressly provided, nothing herein contained shall operate to give any Court jurisdiction over suits the amount or value of the subject-matter of which exceeds the pecuniary limits (if any) of its ordinary jurisdiction.”

A bare perusal of Section 6 makes it clear that the pecuniary jurisdiction, which is the extent of authority of a

court to administer justice is the amount or value of the subject matter of suit / counter claim which must not exceed the pecuniary limits of it's ordinary jurisdiction. Thus the ground of lack of pecuniary jurisdiction is available only when it exceeds the pecuniary limits of it's ordinary jurisdiction. Since the counter claim is valued at Rs. 100/-, the question of exceeding pecuniary jurisdiction of the Court below to deal with counter claim does not arise in the present context. Accordingly the order impugned is perverse and not sustainable in the eye of law.

In such view of the matter C.O. 464 of 2018 is hereby allowed. The order impugned dated 30th November, 2017 passed by he learned Civil Judge (Senior Division), 2nd Court at Hooghly in Title Suit No. 223 of 2012 is hereby set aside. Learned Court below is directed to accept the written statement-cum-counter claim and to frame issues on the basis of pleadings submitted by both the parties, preferably within a period of eight weeks from the date of communication of this order.

Urgent photostat certified copy of this order, if applied for, be supplied to the petitioner, on priority basis on compliance of all usual formalities.

(Ajoy Kumar Mukherjee, J.)