

MONIKA 28.06.2022 (Annexure P-1) was also executed between the parties. Monthly
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rent was agreed @ Rs.50,000/-. Advanced cheques for payment of rent w.e.f. 01.07.2022 to 31.05.2023 (for 11 months) were handed over to the respondents. Despite payment of rent in advance through the said cheques, respondents started interfering in peaceful possession of the petitioner by threatening him to vacate the premises or enhance the rent. So, the petitioner filed the aforesaid suit for permanent injunction dated 05.06.2023 (Annexure P-2).

3. Respondents contested the suit by filing written statement (Annexure P-3) along with a counter-claim. In the written statement, factum of tenancy was denied. They took a stand that the demised premises was given to the petitioner on license. In the counter-claim, respondents sought possession of the workshop in question and also recovery of damages.

4. Faced with this situation, petitioner moved an application (Annexure P-4) under Order 8 Rule 6(C) CPC for exclusion of counter-claim filed by the respondents on the ground that the same is not maintainable and is barred under the law as the respondents should file separate suit for any alleged cause of action accrued in their favour. Respondents filed reply (Annexure P-5) to the said application. Learned Trial Court, after considering pleadings of both the parties, dismissed the application, which led to the filing of presnet revision petition.

5. Learned counsel for the petitioner has submitted that the license is always without consideration but the case of the respondents is that it was given for consideration. There is rent note dated 28.06.2022 with regard to possession of tenancy. The landlord cannot wriggle out of it. The counter-claim for possession of demised premises is not maintainable and same

should be excluded from the suit.

6. I have heard the arguments advanced by learned counsel for the petitioner and have also perused the paper book.

7. The petitioner filed suit for permanent injunction restraining the respondents from dispossessing the petitioner illegally or forcibly or causing any type of interference in the peaceful possession of the petitioner over tenanted premises of workshop, on the ground that he is in possession of the suit property as tenant w.e.f. 01.07.2022 as per rent note dated 28.06.2022 @ Rs.50,000/- per month. He was regularly paying the rent.

8. The respondents filed written statement along with counter-claim on the ground that the said workshop was given to the petitioner as licensee on a license of Rs.50,000/- per month and license agreement was with effect from 01.07.2022 to 31.05.2023, but the petitioner, with mala fide intention, got executed “*Karaya-nama*” from the respondents. The petitioner has no right to retain the possession after 31.05.2023 as the license was not renewed. As per the provisions contained in Order VIII Rule 6-A CPC, a defendant may, in addition to his right of pleading a set-off under Rule 6, set up by way of counter-claim against the plaintiff, any right or claim in respect of a cause of action accruing to the defendant against the plaintiff.

The certain limitations under Order VIII Rule 6-A CPC reads as under :-

“6A. Counter-claim by defendant – (1) 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:

Provided that such counter-claim shall not exceed the pecuniary limits of the jurisdiction of the Court.

(2) Such counter-claim shall have the same effect as a cross-suit so as to enable the Court to pronounce a final judgment in the same suit, both on the original claim and on the counter-claim.

(3) The plaintiff shall be at liberty to file a written statement in answer to the counter-claim of the defendant within such period as may be fixed by the Court.

(4) The counter-claim shall be treated as a plaint and governed by the rules applicable to plaints.”

9. The case of the petitioner is based on the fact that he is in possession of the suit property as tenant of the respondents, as per rent note but the case of the respondents is that the petitioner is in possession of the suit property as licensee, on payment of license fee and “*Karaya-nama*” was got executed by fraud. These are all triable issues. A counter-claim cannot only be set up “against the claim of the plaintiffs” and the same can even be on a separate or independent cause of action. It is so held in **Jag Mohan Chawla and another vs. Dera Radha Swami Satsang and others** reported as **(1996) 4 SCC 699** that counter-claim by a defendant can be made even on a separate or independent cause of action. Since both the parties to the lis are the same and suit property is the same, this Court is of the view that there is no ground to ask the respondents to file a separate suit and counter-claim cannot be excluded from the main suit. Accordingly, there is no

illegality or perversity in the impugned order passed by learned Trial Court and there is no ground to interfere in the same.

7. In view of the above discussion, the present revision petition, being devoid of merit, is hereby dismissed in limine.

8. Pending applications, if any, shall stand disposed of along with this judgment.

March 15, 2024
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.