

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.22 of 2024

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1. Chunchun Prasad Singh Son of Late Bishun Deo Singh, resident of Village-Barauni-03, P.O.-Barauni, Deodhi, P.S. and S.D. and S.R.-Teghra, District-Begusarai, PIN-851113.
 2. Prasant Kumar, son of Pramod Kumar Singh, resident of Village-Barauni-03, P.O.-Barauni, Deodhi, P.S. and S.D. and S.R.-Teghra, District-Begusarai, PIN-851113.
 3. Anjani Kumar Singh, son of Late Raghunandan Singh, resident of Village-Barauni-03, P.O.-Barauni, Deodhi, P.S. and S.D. and S.R.-Teghra, District-Begusarai, PIN-851113.
 4. Shyamdeo Devi, W/o Late Yogendra Prasad Singh, resident of Village-Barauni-03, P.O.-Barauni, Deodhi, P.S. and S.D. and S.R.-Teghra, District-Begusarai, PIN-851113.
 5. Sarita Kumari, W/o Late Sanjay Kumar Singh, resident of Village-Barauni-03, P.O.-Barauni, Deodhi, P.S. and S.D. and S.R.-Teghra, District-Begusarai, PIN-851113.
 6. Abhishek Kumar, S/o Late Sanjay Kumar Singh, resident of Village-Barauni-03, P.O.-Barauni, Deodhi, P.S. and S.D. and S.R.-Teghra, District-Begusarai, PIN-851113.
 7. Avinash Kumar, s/o Late Sanjay Kumar Singh, resident of Village-Barauni-03, P.O.-Barauni, Deodhi, P.S. and S.D. and S.R.-Teghra, District-Begusarai, PIN-851113.
 8. Manohar Prasad Singh, Son of Late Kesar Prasad Singh, resident of Village-Barauni-03, P.O.-Barauni, Deodhi, P.S. and S.D. and S.R.-Teghra, District-Begusarai, PIN-851113.

... .. Petitioner/s

Versus

1. Rajeev Kumar S/o Late Krishna Nandan Prasad Singh, resident of Village-Barauni-03, P.O.-Barauni, Deodhi, P.S. and S.R.-Teghra, District-Begusarai, PIN-851113.
2. Rakesh Kumar, S/o Late Krishna Nandan Prasad Singh, resident of Village-Barauni-03, P.O.-Barauni, Deodhi, P.S. and S.R.-Teghra, District-Begusarai, PIN-851113.
3. Sanjiv Kumar, S/o Late Shyam Nandan Prasad Singh, resident of Village-Barauni-03, P.O.-Barauni, Deodhi, P.S. and S.R.-Teghra, District-Begusarai, PIN-851113.
4. Ajay Kumar, S/o Late Shyam Nandan Prasad Singh, resident of Village-Barauni-03, P.O.-Barauni, Deodhi, P.S. and S.R.-Teghra, District-Begusarai, PIN-851113.
5. Vinay Kumar, S/o Late Shyam Nandan Prasad Singh, resident of Village-Barauni-03, P.O.-Barauni, Deodhi, P.S. and S.R.-Teghra, District-Begusarai, PIN-851113.
6. Rajeshwar Singh, S/o Late Kamo Singh, resident of Village-Barauni-03,



- P.O.-Barauni, Deodhi, P.S. and S.D. and S.R.-Teghra, District-Begusarai, PIN-851113.
7. Upendra Singh, S/o Late Dhaneshwar Singh, resident of Village-Barauni-03, P.O.-Barauni, Deodhi, P.S. and S.D. and S.R.-Teghra, District-Begusarai, PIN-851113.
 8. Baudhu Singh, S/o Late Sukhdeo Singh, resident of Village-Barauni-03, P.O.-Barauni, Deodhi, P.S. and S.D. and S.R.-Teghra, District-Begusarai, PIN-851113.
 9. Sushil Kumar Singh, S/o Late Natho Singh, resident of Village-Barauni-03, P.O.-Barauni, Deodhi, P.S. and S.D. and S.R.-Teghra, District-Begusarai, PIN-851113.
 10. Kumar Mrityunjay Manichandra, s/o Late Chandra Bhushan Prasad Singh, resident of Village-Barauni-03, P.O.-Barauni, Deodhi, P.S. and S.D. and S.R.-Teghra, District-Begusarai, PIN-851113.
 11. Kumar Dhananjaya Manichandra, S/o Late Chandra Bhushan Prasad Singh, resident of Village-Barauni-03, P.O.-Barauni, Deodhi, P.S. and S.D. and S.R.-Teghra, District-Begusarai, PIN-851113.
 12. Kumar Dharmajaya Manichandra, S/o Late Chandra Bhushan Prasad Singh, resident of Village-Barauni-03, P.O.-Barauni, Deodhi, P.S. and S.D. and S.R.-Teghra, District-Begusarai, PIN-851113.
 13. Smt. Poonam Singh, W/o Bipin Kumar singh and D/o Late Chandra Bhushan Prasad Singh, resident of Village-Barauni-03, P.O.-Barauni, Deodhi, P.S. and S.D. and S.R.-Teghra, District-Begusarai, PIN-851113.
 14. Niranjana Sinha, S/o Late Ramanugraha Sinha, resident of Village-Barauni-03, P.O.-Barauni, Deodhi, P.S. and S.D. and S.R.-Teghra, District-Begusarai, PIN-851113.
 15. Vidya Bhushan Sinha, S/o Late Ramanugraha Sinha, resident of Village-Barauni-03, P.O.-Barauni, Deodhi, P.S. and S.D. and S.R.-Teghra, District-Begusarai, PIN-851113.

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Rajni Kant Jha, Advocate Ms. Prisu Snehil, Advocate
For the Respondent/s	:	Mr.Sunil Kumar, Advocate Mr. Sanjeeb Kr. Sanju, Advocate Mr. Bhaskar Sandilya, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 15-04-2025

Heard learned counsel for the parties.

2. The petitioners are aggrieved by the order dated



18.07.2023 passed in Title Suit No. 28 of 2018 by the learned Sub Judge, Teghra, Begusarai whereby and whereunder the learned trial court allowed the petition dated 20.09.2022 filed by the plaintiffs under Order VIII Rule 6C read with Section 151 of the Code of Civil Procedure (hereinafter “the Code”) and excluded the counter claim of the defendants.

3. Learned counsel for the petitioners submits that the petitioners are defendants 1st set before the learned trial court and in the suit filed by the plaintiff bearing Title Suit No. 28 of 2018, the defendants appeared after notice and filed the written statement along with counter claim denying the right and title of the plaintiffs over the entire suit land as described in Schedule-1 of the plaint. The defendants claimed their absolute right and title over the suit land on the basis of auction purchase from ex-landlord Subhash Narayan Singh in Rent Suit No. 1996 of 1938 by their ancestor Megu Singh who was the recorded tenant of the Schedule-1 land. During pendency of the said suit, the plaintiffs filed an application under Order VIII Rule 6C read with Section 151 of the Code on 20.09.2022 for rejection of the counter claim of the defendants. The rejoinder to the said application was filed on behalf of the defendants and the learned trial court allowed the application dated 20.09.2022 vide order



dated 18.07.2023 which is under challenge before this Court.

4. Learned counsel for the petitioners further submits that the learned trial court under a wrong appreciation of law has excluded the counter claim of the defendants. The defendants have raised their counter claim against the plaintiffs and incidentally also against some of the co-defendants for the reasons that the plaintiffs executed certain sale deeds in favour of the co-defendant nos. 10, 11 and 12 but the plaintiffs were not having any right title and interest over the suit land and these documents executed by them were void and illegal documents. Therefore while raising the counter claim the defendants sought the relief against the plaintiffs and also against the co-defendants. The defendants relied on the decision of the Hon'ble Supreme Court in the case of ***Rohit Singh & Ors. Vs. State of Bihar (Now State of Jharkhand) & Ors.*** reported in **2006 (12) SCC 734** wherein the Division Bench of the Hon'ble Supreme Court observed that a counter claim has necessarily to be directed against the plaintiffs in the suit though incidentally or along with it, it may also claim relief against co-defendants in the suit and further held that a counter-claim directed solely against the co-defendants cannot be maintained. However, the learned trial court relied on a Three Judge Bench decision of the



Hon'ble Supreme Court in the case of *Satyender and Ors. Vs. Saroj and Ors.* reported in *2022 (17) SCC 154* wherein a passing reference has been made that a counter claim must be against the plaintiff. But the issue in the case of *Satyender* (supra) was quite different. The Hon'ble Supreme Court was seized of the matter that in the light of Section 41 of the Punjab Courts Act whether there was any requirement of framing of substantial question of law by the High Court in the second appeal since Section 41 of the Punjab Courts Act required that only such decisions were to be considered in second appeal which were contrary to law or to some custom or usage having the force of law or the court below have failed to determine some material issue of law or custom or usage having the force of law and the Hon'ble Supreme Court held that though the requirement of formulation of substantial question of law was not necessary but what is important is "still the question of law". Further, the Hon'ble Supreme Court while considering the counter claim of the defendants took note of the fact that the defendants inserted two plots of land, Killa Nos. 6/18 and 23 setting a counter claim of these plots on the ground since the plaintiffs did not set up any claim against these two plots and the Hon'ble Supreme Court held that a counter claim can be set



up only “against the claim of the plaintiffs” and came to a finding that since there was no claim of the plaintiffs regarding Killa nos. 6/18 and 23 the defendant were barred to raise any counter claim on these Killa in view of Order VIII Rule 6A of the Code as it has nothing to do with the plaintiffs. Thereafter while discussing the law, the Hon’ble Supreme Court noted that certain limitations has been imposed and counter claim cannot exceed the pecuniary limits of the jurisdiction of the Court, and that such counter claim must be instituted before the defendant has delivered his defence or before the time limit for delivering his defence has expired and further held that such a counter claim must be against the plaintiffs. But the plain reading shows that the issue as to whether if the counter claim is against the plaintiffs as well as co-defendants, in all cases, such counter claim could not be maintained and this issue was not dealt with by the three Judges Bench of the Hon’ble Supreme Court. Learned counsel further submits that the learned court below was simply swayed away by the fact that the case of the case of *Satyender* (supra) has been decided by a larger Bench than that of *Rohit Singh* (supra) without adverting to the fact of the case. The decision in the case of *Satyender* (supra) is factually distinguishable and the findings rendered therein can not be



applied to the facts and circumstances of the present case. In the aforesaid case the counter claim was not against the plaintiffs. Moreover, the plaintiffs had not claimed any right over the property and the two plots were not even part of the suit property described in the plaint by the plaintiffs. But in the present case the counter claim is primarily directed by the petitioners against the plaintiffs in respect of the entire suit land and as the plaintiffs purported to have sold the part of the suit land in favour of Defendants 10 to 12 and so for doing complete justice between the parties and for avoiding the multiplicity of the proceedings between the same set of parties relief is sought against the defendants No 10 to 12 also along with the plaintiffs and not solely against the co-defendants.

5. Learned counsel thereafter referred to the case of ***Sreenivasa General Traders & Ors. Vs. State of Andhara Pradesh & Ors.*** reported in ***(1983) 4 SCC 353*** wherein the Three Judges Bench of the Hon'ble Supreme Court held that a case is an authority only for what it actually decides and not for what may logically follow from it. Every judgment must be read as applicable to the particular facts proved, or assumed to be proved; since the generality of the expressions which may be found there are not intended to be expositions of the whole law



but governed or qualified by the particular facts of the case in which expressions are to be found. Therefore, the decision of the Hon'ble Supreme Court in the case of **Satyender**(supra) must be read in the light of the facts before the Hon'ble Supreme Court in the said case and it could not be taken as a general proposition of law as founded on the point of arraying of co-defendants in counter claim. Learned counsel again refers to the case of **Rohit Singh** (Supra) case in support of his contention and submits that the impugned order could not be sustained and the same needs to be set aside.

6. Learned counsel appearing on behalf of the respondents vehemently contends that there is no infirmity in the impugned order and the same needs sustenance from this Court. Learned counsel further submits that the learned trial court has based its decision considering the law as laid down by the Hon'ble Supreme Court in the case of **Satyender** (Supra) wherein it has been specifically held that a counter claim must be against the plaintiffs. In the present case the counter claim is against the plaintiffs as well as co-defendants and the same was rightly excluded by the learned trial court. Learned counsel further submits that under Order VIII Rule 6A of the Code a counter claim can be instituted only against the plaintiffs and the



same was taken note of by the learned trial court and the issue has been also decided by the Hon'ble Supreme Court in the case of **Satyender** (Supra).

7. I have given my thoughtful consideration to the rival submission of the parties. The issue before this Court lies in a very narrow compass as to whether the counter claim could be only against the plaintiffs or could it be maintained against the plaintiffs and co-defendants. The law on this point has been made clear by the Hon'ble Supreme Court in the case of **Rohit Singh** (Supra) in paragraph 18 of the same reads as under :

“Normally, a counter-claim, though based on a different cause of action than the one put in suit by the plaintiff could be made. But, it appears to us that a counter- claim has necessarily to be directed against the plaintiff in the suit, though incidentally or along with it, it may also claim relief against co-defendants in the suit. But a counter-claim directed solely against the co-defendants cannot be maintained. By filing a counter-claim the litigation cannot be converted into some sort of an inter-pleader suit. Here, defendants 3 to 17 had no claim as against the plaintiff except that they were denying the right put forward by the plaintiff and the validity of the document relied on by the plaintiff and were asserting a right in themselves. They had no case even that the plaintiff was trying to interfere with their claimed possession. Their whole case was directed against defendants 1 and 2 in the suit and they were trying to put forward a claim as against the State and were challenging the



claim of the State that the land involved was a notified forest in the possession of the State. Such a counter-claim, in our view, should not have been entertained by the trial court.”

8. However the observation in the case of **Satyender** (Supra) that a counter claim must be against the plaintiffs has been taken note of by the learned trial court while passing the impugned order. The issue before Hon’ble Supreme Court in the case of **Satyender** (Supra) was not at all with regard to the counter claim being against plaintiffs and co-defendants and the defendants claimed their title and interest over two plots of land on which the plaintiffs did not make any claim and thus, the counter claim was not against the plaintiffs and in these facts and circumstances, the Hon’ble Supreme Court held that a counter claim must be against the plaintiff. But the issue which came up before the Hon’ble Supreme Court in the case of **Rohit Singh** (supra) was not the matter in issue before the Hon’ble Supreme Court in the case of **Satyender** (supra). Moreover, **Rohit Singh** (supra) was not placed for consideration before the Hon’ble Supreme Court in **Satyender** (supra).

9. It is trite to remind oneself that placing reliance on a decision without discussing the facts and circumstances of the particular case is always fraught with danger. If the facts of the case in hand are similar and fits in with the facts of the decision



being relied upon then only reliance is germane otherwise not.

In ***State of Orissa Vs. Sudhansu Sekhar Misra, AIR 1968 SC 647***, the Constitution Bench of the Hon'ble Supreme Court observed that a decision is only an authority for what it actually decides. Thereafter it quoted Earl of Halsbury, LC who held in ***Quinn vs. Leathem, 1901 AC 494*** as follows:

“Now before discussing the case of Allen v. Flood, (1898) AC 1 and what was decided therein, there are two observations of a general character which I wish to make, and one is to repeat what I have very often said before, that every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found. The other is that a case is only an authority for what it actually decides. I entirely deny that it can be quoted for a proposition that may seem to follow logically from it. Such a mode of reasoning assumes that the law is necessarily a logical Code, whereas every lawyer must acknowledge that the law is not always logical at all”.

It was further quoted with approval by the Hon'ble Supreme Court in the case of ***Ambica Quarry Works v. State of Gujarat and others*** reported in ***AIR 1987 SC 1073*** as below:

“... The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that



*a case is only an authority for what it actually decides, and not what logically follows from it. (See Lord Halsbury in Quinn v. Leathem).
... ””*

The Hon'ble Supreme Court in the case of ***Bharat Petroleum Corpn. Ltd. v. N.R. Vairamani*** reported in **(2004) 8 SCC 579** has made this point amply clear that the observation of the courts are not like the Euclid's theorem nor as provisions of statutes. So binding precedent would only be those cases which have been decided and covers the facts of the case in hand where the precedent is sought to be applied. The Hon'ble Supreme Court held in paragraph nos. 9, 10, 11 & 12 as under:

“.....Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes. In London Graving Dock Co. Ltd. V. Horton (1951 AC 737 at p.761), Lord Mac Dermot observed:

"The matter cannot, of course, be settled merely by treating the ipsissima verba of Willes, J as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished judge."



10. In Home Office v. Dorset Yacht Co. (1970 (2) All ER 294) Lord Reid said, "Lord Atkin's speech.....is not to be treated as if it was a statute definition it will require qualification in new circumstances." Megarry, J in (1971) 1 WLR 1062 observed: "One must not, of course, construe even a reserved judgment of Russell L.J. as if it were an Act of Parliament." And, in Herrington v. British Railways Board (1972 (2) WLR 537) Lord Morris said:

"There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances made in the setting of the facts of a particular case."

11. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper.

12. The following words of Lord Denning in the matter of applying precedents have become locus classicus:

"Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect, in deciding such cases, one should avoid the temptation to decide cases (as said by Cordozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."

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"Precedent should be followed only so far as it marks the path of justice, but you must cut



the dead wood and trim off the side branches else you will find yourself lost in thickets and branches. My plea is to keep the path to justice clear of obstructions which could impede it."

10. Now in the facts of the present case, the issue that whether counter claim could be maintained against the plaintiff and against the co-defendants, the same has been answered in **Rohit Singh** (supra) and once it has been specifically held that a counter claim can be raised against the plaintiffs and co-defendants, and there is no specific finding on this point and no consideration of decision of **Rohit Singh** (supra) by the larger Bench, placing reliance on **Rohit Singh** (supra) is apposite.

11. Therefore, I am of the considered opinion that the learned trial court erred while allowing the application filed by the plaintiffs/respondents under Order VIII Rule 6C read with Section 151 of the Code and the impugned order dated 18.07.2023 could not be sustained and accordingly the same is set aside.

12. As a result, the present petition stands allowed.

(Arun Kumar Jha, J)

Anuradha/-

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