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22.9.2025
Ct. No. 16
SB

FMA 772 of 2025
CAN 1 of 2025

Sri Arun Kumar Sen
Vs.
Sri Arun Chowdhury & Ors.

Mr. Ramdulal Manna
Mrs. Manju Manna (Dey)
Mr. Sayan Mukherjee ...for the appellant

Mr. Shubham Gupta
Mr. Anirban Ghosh
Mr. R. Pal Bakshi
Md. Ayaan ... for the respondents.

1. In paragraph 4 of the order dated 17.9.2025 there is a typographical error and it appears to be so as instead of '5th May, 2025' it should be '20th August, 2025'.
1. Let the said corrections be incorporated in the order dated 17.9.2025.
2. The server copy shall be corrected accordingly.
3. By consent of the parties, the appeal and the applications are taken up for consideration and disposed of by this order. The impugned order has not taken into consideration the provision of Order 8 Rule 6(A) of the CPC which clearly states that the counter claim shall be treated as a plaint and will be covered by rules applicable to the plaints. Moreover, it appears that while accepting the counter claim any direction was passed upon the appellant to file reply to the written statement to the counter claim within a period fixed by the Court as required under Order 8 Rule 6(A)(4) of the CPC. It further appears that the learned Trial Court has misread the provision of Order 9

Rule 13 without appreciating the fact that it was a mistake of the Court.

4. On such consideration the impugned order is set aside.
5. The respondent in the counter claim shall serve a copy of the counter claim upon the advocate on record of the plaintiff in the original suit within two weeks after the ensuing Puja Vacation. Reply thereto, if any, to the said counter claim shall be filed within three weeks from the date of service of the counter claim.
6. The aforesaid directions are peremptory.
7. The appeal and the applications are disposed of.
8. If the pleadings are complete, the learned Trial Judge may expedite the hearing of the suit.

[Soumen Sen, C.J. (Acting)]

(Apurba Sinha Ray, J)