



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2064 OF 2024

1. Jyoti Dadasaheb Kate,
Age:29 years, Occu. Agri.
2. Aniket Dadasaheb Kate
Age:11 years, Occu. Education
3. Komal Dadasaheb Kate,
Age:8 years, Occu. Education.
Through guardian mother,
Petitioner No.1 Jyoti Dadasaheb kate,
All R/o. Lolegaon, Tq. Shevgaon,
Dist. Ahmednagar

.....PETITIONERS
(Org. Plaintiffs)

VERSUS

1. Rangnath Tukaram Kate,
Age: 51 years, Occu: Nil,
R/o Lolegaon, Tq. Shevgaon,
Dist. Ahmednagar.
2. Dadasaheb Rangnath Kate,
Age: 31 years, Occu: Nil,
R/o Lolegaon, Tq. Shevgaon,
Dist. Ahmednagar.
3. Dwarka Prakash Sonwane
Age: 29 years, Occu: Household,
R/o. Behind Golibar Wall,
Solapur Road, Nagar,
Dist. Ahmednagar
4. Laxmi Bhaurao Salve
Age: 26 years, Occu: Household,
R/o. Indiranagar, Shevgaon,
At Post and Tq. Shevgaon,
Dist. Ahmednagar

5. Saibai Rangnath Kate,
Age: 41 years, Occu: Household,
R/o. Lolegaon, Tq. Shevgaon,
Dist. Ahmednagar
6. Archana Ravi Bharaskar,
Age: 21 years, Occu: Household,
R/o. Bharaskarwadi, Shevgaon,
Shevgaon, at Post and Tq. Shevgaon,
Dist. Ahmednagar.
7. Ramnath Asaram Bhosale,
Age: 45 years, Occu: Labour,
R/o. Baktarpur, Tq. Shevgaon,
Dist. Ahmednagar.

.....RESPONDENTS
(Ori. Defendants)

Mr. Y. V. Kakde, Advocate for the Petitioners
Mr. L. B. Palod, Advocate for Respondent no.7

CORAM : ROHIT W. JOSHI, J.

DATED : 14TH JULY, 2025

ORAL JUDGMENT :-

. The present petition takes exception to order dated 22.12.2023, passed by the learned Joint Civil Judge, Junior Division, Shevgaon, rejecting application at Exhibit 52 filed by the original plaintiff for rejection of the counter claim filed by the original defendant no.7 in Regular Civil Suit No.26 of 2023.

2. The contention of the original plaintiff is that the counter claim is filed by the defendant no.7 against the original plaintiff and defendant no.2. His contention is that a counter claim cannot be maintained by a defendant against a co-defendant. The learned Advocate has placed reliance on judgments of the Hon'ble Supreme Court in the matter of ***Damodhar Narayan Sawale Vs. Tejrao Bajirao Mhaske***, reported in ***AIR 2023 Supreme Court 3319*** in support of the contention. The said judgment refers to another judgment of the Hon'ble Supreme Court in the matter of ***Rohit Singh Vs. State of Bihar***, reported in ***AIR 2007 Supreme Court 10***. In the matter of Rohit Singh, the Hon'ble Supreme Court has held that although, a counter claim cannot be maintained by defendant against another defendant, such a counter claim will be maintainable if filed against the plaintiff as also against some of the defendants.

3. The judgment in the matter of ***Rohit Singh*** is followed by this Court in Writ Petition No.4639 of 2019 (Aurangabad Bench) to hold that a counter claim against a plaintiff and other defendants is maintainable.

4. The issue raised by the petitioner is thus concluded by the judgment of the Hon'ble Supreme Court in the matter of ***Rohit Singh*** and judgment dated 22.02.2021, passed by this Court in Writ Petition No.4639 of 2019. The order impugned, therefore, does not call for any interference.

5. The Writ Petition is **dismissed** with no orders as to cost.

6. Civil Application, if any, stands **disposed** of.

(ROHIT W. JOSHI, J.)