



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2823 OF 2024

MALHARI PANDURANG KSHIRSAGAR
VERSUS
SINDHU MAHADEO KASBE AND ANOTHER

...
Advocate for the Petitioner : Mr. A. T. Jadhavar
Advocate for Respondents : Mr. M. B. Kolpe
...

CORAM : ROHIT W. JOSHI, J.

Dated : July 2, 2025

PER COURT :-

1. Vide order dated 12.12.2023 passed below Exh. 26 in Regular Civil Suit No. 425 of 2022, the defendant No. 2 was permitted to file counter-claim. The petitioner is original plaintiff. The respondent No. 2 is original defendant No. 2 in the suit.

2. The petitioner has challenged the said order permitting filing of counter-claim. Perusal of counter-claim will demonstrate that according to the defendant No. 2, the cause of action arose on 26.07.2022 whereas the written statement is filed on 22.07.2022. Since the cause of action has arisen after filing the written statement, filing of counter-claim is not permissible.

3. In view of the above, this petition is allowed. The order dated 12.12.2023 passed below Exh. 26 in Regular Civil Suit No. 425 of 2022 by 3rd Jt. Civil Judge Senior Division, Osmanabad, is quashed and set aside. Liberty is granted to respondent No. 2 to file substantive civil suit, if he so desires.

4. It will be open for the respondent No. 2 to contend that the period from the date of filing of application seeking permission to file counter-claim claim on record i.e. 20.07.2023 till today, be excluded having regard to Section 14 of the Limitation Act.

(ROHIT W. JOSHI, J.)

Omkar Joshi