

CO. 3857 of 2025

22.06.26
D/L
Sl-06
Ct. 06
(Samar)

Sahanaj Parvin & Ors.
Vs.
Sri Gautam Mukherjee & Anr.

Mr. Sanat Kumar Ray,
Mr. Atanu Basu,
... for the petitioners.
Mr. T. Saha,
Mr. Ratikanta Pal,
Mr. Debojit Adhikary,
.... for the opposite parties.

1. This revisional application is directed against an order dated September 06, 2025 passed by the learned Civil Judge (Junior Division) 1st Court, Arambag, District Hooghly whereby the learned Trial Court has returned the counter claim along with fees/stamps and vakalatnama to the petitioners upon observing that the learned Trial Court did not have pecuniary jurisdiction to entertain the same.
2. Title Suit No. 63 of 2024 has been instituted by the opposite parties praying for a decree for declaration an injunction. In the said suit, the petitioners entered appearance and filed their written statement along with a counter claim.
3. The learned Trial Court has by the order impugned returned the counter claim with the observation that the valuation of the counter claim is Rs. 25,00,000/- and the learned Trial Court lacks

pecuniary jurisdiction to entertain the same. The learned Trial Court has ordered as follows:

*“That instant **counter-claim dt. 05.07.2025** is hereby **returned** to the defendants for it’s presentation before proper Court.”*

4. The learned advocate appearing for the petitioners submits that the learned Trial Court has been remiss in returning the counter claim since the petitioners had already deposited the court fees for the purpose of such counter-claim. In support of his contention he relies on a judgment of Co-ordinate Bench of this Court in the case of **Sharmistha Biswas Vs. Nanigopal Deb & Anr.** reported at **(2014) 4 WBLR (Cal) 991.**
5. The opposite parties are represented.
6. The proviso to Order 8 Rule 6A(1) of the Code of Civil Procedure clearly indicates that a counter claim shall not exceed the pecuniary limits of the jurisdiction of the Code were it is filed. In such view of the matter, it cannot be said that the learned Trial Court has acted illegally or with material irregularity in returning the counter-claim on the ground that the said learned Court lacked pecuniary jurisdiction. It is in fact not in dispute that the learned Trial Court does not have pecuniary jurisdiction to the extent of Rs. 25,00,000/-.
7. The judgment of the Co-ordinate Bench of this

Court in ***Sharmistha Biswas*** (supra) quite naturally does not hold any contrary view. In the said case too it has been observed that *“the trial Court’s refusal to accept the petitioner’s Counter-claim in the impugned Order was not entirely unjustified since it did not have pecuniary jurisdiction to entertain the same”*. However, in the said case the learned Trial Court was found to have faulted in directing the petitioners before the Court to pay of the deficit court fees of the counter claim although the learned Trial Court was not possessed of jurisdiction and as such this Court granted liberty to the petitioners to move appropriate application under Section 24 of the Code before the learned District Judge to get the pending proceedings transferred. In the case at hand the learned Trial Court has not committed such error of directing payment of court fees.

8. Therefore, the order impugned does not call for any interference. However the petitioners shall be free to take such recourse to law as may be available to the petitioners and shall be at liberty to file appropriate proceeding before appropriate Court in accordance with law.
9. With the above observations, CO. 3857 of 2025 stands disposed of. There shall be no order as to costs.

10. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Om Narayan Rai, J.)