

MISC DJ 1613/24 M/S Bajaj Express India Pvt Limited Vs. Mohit Sharma

01.06.2026.

Present: Mr. Kailash Chander, Ld. Proxy Counsel for the applicant through VC.
Mr. R.K. Yashwant Singh, Ld. Counsel for non-applicant.

File is taken up on order under Section 151 CPC filed by counter claimant thereby praying for restoration of the counter claim recalling the order dated 29.08.2024 vide which the counter claim was rejected under Order 7 Rule 11 (c) CPC since counter claimant had filed failed to file Court fees despite opportunity is given.

O R D E R

Arguments have already been heard. Record is perused carefully.

Vide the application, restoration is sought stating that being not uploaded on CIS portal, orders passed by Ld. Predecessor of this Court never came into the notice of counter claimant and the deficiency in Court fees escaped from the attention of Ld. Counsel of defendant and the defendant/counter claimant immediately transferred the Court fees from Kolkata and there had been no intentional delay or default.

Application is opposed strongly on the ground that since rejection is an appealable order, appropriate course of the defendant is only to approach appellate Court.

Heard. Record perused.

Ld. Counsel for the defendant was relied upon **Padmalaya Panda Vs. Masinath Mohanty, 1989 (I)OLR374** passed by Hon'ble High Court of Orissa. While dealing the question as to the restoration of the plaint dismissed for non-payment of Court fees, Hon'ble High Court of Orissa held that inherent power of the Court was available for restoration of the suit by setting aside the order of rejection if sufficient

cause is shown. Thus, keeping this judgment in view and considering that party should not suffer at the lapses of the counsel and compliance is likely to be not made in time since defendant had been working for the gains in Kolkata, **counter claim is hereby restored subject to the cost of Rs. 4,000/- to be paid by the counter claim to the non-counter claim. Court fees has already been filed. Application is allowed accordingly.**

Now, case is fixed for payment of cost and further proceedings on 05.10.2026.

**(Aanchal)
District Judge-03, Rohini Courts
North District, Delhi
01.06.2026(amt)**