

Counter Claim 18/22

RAJ BALA Vs. PARMOD MALHOTRA

19.02.2024

Present: Sh. Girindra Kumar Pathak, Id counsel for counter-claimant alongwith counter-claimant.

None for counter respondent.

Three applications moved by counter respondent are pending disposal. Arguments have already been heard on the same.

The first application is under Order VII Rule 11 (a) & (d) read with Section 151 CPC. In said application, it is submitted that there is no cause of action in the present matter and this Court also does not have territorial jurisdiction in the present matter. It is also submitted that as per case of counter claimant, counter respondent in conspiracy with four property dealers caused loss to the counter claimant and in respect of such loss, she has already filed suit for damages and compensation against said four property dealers, and said suit is pending in Dwarka District Court. It is submitted that in view of the said fact, present counter claim is barred under Order II Rule 2 CPC. Prayer has been made to reject the counter claim of counter claimant.

This Court is of the considered view that perusal of contents of counter claim shows that present counter claim has been filed by counter claimant against counter respondent seeking the damages /compensation from counter respondent for filing false and frivolous suit against her by counter respondent. This Court is of the

view that at the time of deciding an application under Order VII Rule 11 CPC, Court has to peruse only the averments made in the plaint/counter-claim. This Court is of the view that from perusal of contents of counter-claim, sufficient cause of action is made out in the present matter.

So far the plea of territorial jurisdiction is concerned, this Court is of the considered view that counter-claimant is seeking damages from counter respondent and as per record, at the time of institution of the suit qua which, present counter-claim has been filed, the address of counter respondent fell within the territorial jurisdiction of West District. Accordingly, this Court has territorial jurisdiction in the present matter.

So far the plea of Order II Rule 2 CPC is concerned, this Court is of the considered view that present counter-claim has been filed by counter claimant for seeking damages from counter respondent on account of false and frivolous suit filed against her by counter respondent. This Court is of the considered view that in said alleged suit, the property dealers were not the plaintiff or party, so this plea is also not sustainable. Accordingly, application under Order VII Rule 11 (a) & (d) read with Section 151 CPC is dismissed.

In second application moved by counter respondent under Section 9 read with Section 151 CPC, counter respondent has taken the plea that this Court has no territorial jurisdiction to try the present suit. This Court is of the considered view that this plea has already been dealt with while deciding the application under Order VII Rule 11 (a)

& (d) read with Section 151 CPC and accordingly, this application is also disposed of.

In third application under Order II Rule 2 read with Section 151 CPC, counter respondent has taken the plea that present counter-claim is not maintainable in view of Order II Rule 2 CPC. This Court is of the view that this is the same plea as has been dealt with in application under Order VII Rule 11 (a) & (d) read with Section 151 CPC and accordingly, this application is also disposed of.

Matter be put up for admission-denial of documents, framing of issues and consideration of remaining pending applications, if any.

Matter be put up on **13.05.2024**.

Announced in the open Court  
this 19<sup>th</sup> day of February, 2024.

(Dharmender Singh)  
Additional District Judge-01(West)  
Tis Hazari Courts, Delhi