

**In the court of the Ld. Civil Judge Sr. Division
Jalpaiguri Sadar Court**

Present : Sri Miftahul Israr, Civil Judge Sr. Division

TITLE SUIT NO- 51 / 2023

CNR: WBJP03-000120-2023

Sri Chhotan Ghosh Vs Sri Pran Krishna Paul and others

Order no. 23, dated 04-07-2026

Case record is fixed today for acceptance of Counter claim.

The plaintiff is present by filing hazira through his Ld. Advocate.

The defendant are present by filing hazira through their Ld. Advocate.

The plaintiff filed an application with a prayer to extend the ad interim order of injunction.

The case record is taken up for hearing.

Heard both sides. Considered.

The plaintiff Chhotan Ghosh filed this suit for partition, declaration, injunction and other consequential relief against five plaintiffs namely 1) Pran Krishna Paul, 2) Smt. Babita Paul, 3) Smt. Rumpa Paul, 4) Ranjit Paul, 5) Pintu Paul. The defendants appeared in this suit and filed written statement and counter claim separately. The defendants filed counter claim against not only the plaintiff against other nine persons namely 1) Chhotan Ghosh, 2) Smt. Chandra Rekha Paul, 3) Dilip Paul, 4) Sanjay Paul, 5) Smt. Sikha Paul, 6) Krishna Paul, 7) Haridhan Paul, 8) Smt. Urmila Paul, 9) Smt. Bela Paul, 10) Smt. Gita Mohanta.

The plaintiff filed written objection against the counter claim denying and disputing the materials allegation raised by the defendant in their counter claim.

At the time of hearing Ld. Advocate appearing for the defendant has submitted that the defendants filed this counter claim against the plaintiff and other persons for effective partition of the suit property. At the time of hearing Ld. Advocate appearing for the plaintiff has submitted that the defendants filed this counter claim not only against the plaintiff but also other persons. The defendants has right to file counter claim only against the plaintiff not the other person in the same suit. At the time of hearing Ld. Advocate for the plaintiff has referred the following judgement of the Hon'ble Court :

- 1) Nima Khanna & Others Vs Narayan Parwal, 2015 SCC Online DEL 6413.
- 2) Jagmohan Chawla & another Vs Dera Radhaswami Satsang & others (1996) AIR (SCW) 2722.

3) Rohit Singh & others Vs State of Bihar (now state of Jharkhand) & others (2006) AIR (SCW) 5385.

The provision of counter claim laid down in Order VIII, Rule 6A of CPC is hereby reproduce below :

6A. Counter-claim by defendant.—(1) A defendant in a suit may, in addition to his right of pleading a set-off under rule 6, set up, by way of counter-claim against the claim of the plaintiff, any right or claim in respect of a cause of action accruing to the defendant against the plaintiff either before or after the filing of the suit but before the defendant has delivered his defence or before the time limited for delivering his defence has expired, whether such counter-claim is in the nature of a claim for damages or not:

Provided that such counter-claim shall not exceed the pecuniary limits of the jurisdiction of the court.

(2) Such counter-claim shall have the same effect as a cross-suit so as to enable the Court to pronounce a final judgment in the same suit, both on the original claim and on the counter-claim.

(3) The plaintiff shall be at liberty to file a written statement in answer to the counter-claim of the defendant within such period as may be fixed by the court.

(4) The counter-claim shall be treated as a plaint and governed by the rules applicable to plaints.

According to the provision of the CPC, counter claim can only be filed only against the plaintiff not the other persons. The defendants filed this counter claim against the plaintiff and other nine (09) persons who are not the party of this suit. So, the counter claim is not acceptable and liable to reject.

Hence the counter claim of the defendants is hereby considered and rejected.

The petition for extension of interim order is hereby allowed. The interim order of injunction is hereby extended till next date.

To 13-08-2026 for injunction hearing.

**Civil Judge Sr. Division
Jalpaiguri Sadar Court
J.O. Code: WB01295**

Dictated & Corrected by me:

**Civil Judge Sr. Division
Jalpaiguri Sadar Court
J.O. Code: WB01295**