

Vidhul Gupta Vs Simrandeep Kaur (CS-1066-2021)

CNR NO.PBSG-02-001389-2019.

Present: Sh. H. S. Shally Adv. for plaintiff.
Sh. Yogesh Gupta Adv. for defendant No. 1.
Sh. R. S. Maur Adv. for defendant No. 2 (**counter claimant**).
Mr. Saurav Garg, Advocate for defendant No. 4.
Sh. G.S.Gippy, Advocate for defendant No. 5.
Sh. S. S. Dhindsa Adv. for defendant No. 10. (**defence struck off**).
Sh. Sukhwinder Singh Adv. for defendant No. 12. (**defence struck off**).
Sh. R. S. Deol Adv. for defendants No. 17, 18 and 47.
Sh. Ramit Pathak Adv. for defendant No. 22 and 57.
Sh. Amit Kumar Bhalla Adv. for defendant No. 24. (**defence struck off**).
Sh. Neeraj Bansal Adv. for defendants No. 34 and 35.
Sh. J. S. Moudgil Adv. for defendants No. 36, 39, 40, 42, 52 and 53.
Sh. Lalit Kumar Garg Adv. for defendant No. 56.
Sh. Tarun Goyal Adv. for defendants No. 3, 46, 54 and 55.
Sh. S.K Garg, Advocate, for the defendant no.25 and 41.
Defendants no.6 to 9, 11, 13, 14, 16, 19, 20, 21, 23, 26 to 33, 37, 38, 43 to 45, 48 to 51 exparte.

ORDER:

1. Heard on the application under Order 7 Rule 11 CPC moved by the plaintiff/Non counter claimant through counsel for rejection of the counter claim.
2. As per the applicant, that the plaintiff/non counter claimant has filed present suit for partition and separate possession by way of meets and bounds. That the defendant no.2 has filed the present counter claim for possession against the plaintiff as well as other defendants. That it is settled law that counter claim cannot be filed against co-defendants and as such the present counter-claim filed by defendant Shashi Gupta is liable to be rejected being barred by law as the same is not maintainable as per law. That the share of the counter claimant will also be decided in

the suit filed by the plaintiff and there is no need of the present counter claim and the present counter claim has been filed only with the intention to delay the proceedings of the present case and he has prayed for rejection of the counter claims.

Ld. Counsel for the plaintiff has placed reliance upon the authorities titled as “*Satyender & Ors. Versus Saroj & Ors*” in Law Finder Doc Id #2024635. “*Sanjay Tiwari Vs. Yugal Kishore Prasad Sao & Ors* in Law Finder Doc Id # 2807120” passed by Hon’ble Supreme Court of India.

3. In reply to the present application filed by the defendant/counter claimant, it is submitted that the defendant-counter claimant has also prayed that her share of the joint property may also be partitioned and possession be delivered accordingly. In the partition suit, defendant has the right to get her share partitioned. In the partition suit, every defendant is plaintiff and every plaintiff is defendant. The defendant has right to get her share partitioned in the partition suit as has been held in the Ruling 2009(4) CCC 660. Denying rest of the remaining averments, prayer for the dismissal of the application is made. Reliance is placed upon the authority titled as “*Ram Mehar Vs. Surat Singh & Ors* in 1989 PLJ”, passed by Hon’ble Punjab & Haryana High Court, Chandigarh.

4. Perusal of the file shows that the present suit is filed by plaintiff against the defendants seeking the relief of possession by way of partition and consequential relief of permanent injunction (as detailed in the head note of the plaint). It is stated that originally the suit land was agricultural and then thereafter, the land was sold by the co-sharers to many persons and at present the land has been converted into residential

and commercial area. That the plaintiff has become an owner in possession to the extent of 190/14040 share measuring 0-6.1/3 Marla vide transfer deed No.2021-22/128/1/551 dated 10.05.2021 and in this manner plaintiff is owner in the suit land as co-sharer to the extent of 190/14040 share in the suit land. That the original co-sharer have sold the transfer their shares to the different persons so all the vendees are arrayed as defendants in the present suit. That suit land still joint in the revenue record and there usually remains dispute between the co-owners. The defendant no.2 has sold the land by preparing false site plan and as such the dispute crept between the parties.

5. So far as the provisions of Order VII Rule 11 CPC are concerned, while considering an application for rejection of the counter claim, the Court is required to examine only the averments made therein and the documents relied upon by the counter claimant. The defence of the opposite party or the merits of the rival claims cannot be considered at this stage. The counter claim, on its plain reading, discloses a cause of action and does not appear to be barred by any law. The contention of the applicant that the counter claim is not maintainable against the co-defendants involves disputed questions which cannot be adjudicated while exercising jurisdiction under Order VII Rule 11 CPC. Consequently, no ground is made out for rejection of the counter claim under Order VII Rule 11 CPC at this stage. *The ratio of the authorities cited by the ld. Counsel for the applicants-plaintiff are not applicable to the facts and circumstances of the present case.* Accordingly, the present application stands **dismissed**, being devoid of merit being not maintainable at this

stage.

However, any observation made herein shall not be construed as an expression on the merits of the case, which shall be decided independently on the basis of the evidence and material available on record.

Pronounced.

Dated: 10.08.2026

(Harish Kumar) Stenographer-II

(Jamilap Singh Khushdil),
Civil Judge Sr. Divn.
Sangrur. UID No.PB00342

Present: Sh. H. S. Shally Adv. for plaintiff.
Sh. Yogesh Gupta Adv. for defendant No. 1.
Sh. R. S. Maur Adv. for defendant No. 2 (**counter claimant**).
Mr. Saurav Garg, Advocate for defendant No. 4.
Sh. G.S.Gippy, Advocate for defendant No. 5.
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Sh. J. S. Moudgil Adv. for defendants No. 36, 39, 40, 42, 52 and 53.
Sh. Lalit Kumar Garg Adv. for defendant No. 56.
Sh. Tarun Goyal Adv. for defendants No. 3, 46, 54 and 55.
Sh. S.K Garg, Advocate, for the defendant no.25 and 41.
Defendants no.6 to 9, 11, 13, 14, 16, 19, 20, 21, 23, 26 to 33, 37, 38, 43 to 45, 48 to 51 exparte.

Arguments heard. Vide my separate order of even date, application under Order 7 Rule 11 CPC moved by the plaintiff/Non counter claimant through counsel for rejection of the counter claim has been **dismissed as detailed therein**.

Reply to the application under Section 151 CPC for recalling the order dated 19.03.2024 not filed. On request, to come up on **01.09.2026 for filing reply to said application, subject to the last opportunity**.

Pronounced.
Dated: 10.08.2026

(Harish Kumar) Stenographer-II

(Jamilap Singh Khushdil),
Civil Judge Sr. Divn.
Sangrur. UID No.PB00342

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At this stage, file taken up again. Two applications under Order 39 Rule 4 CPC for vacation of the stay order dated 31.12.2021 passed by the Ld. Judicial Magistrate, Ist Class, Sangrur have been filed, one by applicant-defendant No.25 and the other by defendant-applicant No.41. Copies supplied. Both the applications being similar in nature. To come up on the date already fixed for 01.09.2026 for filing reply to said applications and for further proceedings.

Pronounced.
Dated: 10.08.2026

(Harish Kumar) Stenographer-II

(Jamilap Singh Khushdil),
Civil Judge Sr. Divn.
Sangrur. UID No.PB00342