

**Order below Exh.69 in RCS 4/2014**

**Mahadevi Vs Mahadev**

The application is under Order 7 Rule 11 of the CPC.

2 Perused the application, say (Exh.71), and the record.

3 Heard both the sides.

4 The suit is for partition, and other consequential reliefs. Original defendants 6 and 7 have filed written statement cum counter claim below Exh.60. The original plaintiff has filed written statement to the counter-claim below Exh.67 and combated the claim.

5 The application is by the original plaintiff 2 seeking rejection of the plaint on the ground, that the original defendants 6 and 7 failed to file original documents or any list of documents and therefore, it can not be understood as to why the counter claim has been filed. Futher, it is averred and argued that it is mandatory to file original documents and the copies alongwith the counter-claim and therefore, the plaint in the counter claim be rejected.

6 The original defendants 6 and 7 have filed their say to the present application below Exh.79 and objected to the application. The application is misconceived. The counter-claimant was divested and not made a party and fianally after making necessary amendment has been arrayed as a party. The reason assigned may not proper. The application has been filed to delay the proceedings. The application is misconceived. Hence, the application is opposed.

7 The following points arose for my determination, to which I record my findings together with the reasons thereof:-

Sr.No	Points for determination	Findings
1	Whether the plaint is liable to be reject?	No
2	What order?	As per the final order.

## Reasons

### Point 1

8 It is settled law, that for deciding the present application, the averments in the plaint is germane and the defence taken in the written statement is wholly irrelevant. Further, it is settled law, that the documents along with the plaint or the counter claim may be considered. A counter claim is a plaint for the original defendants and all the rules of pleadings are applicable to the same and therefore, the provision may be applicable to even rejection of the counter claim.

9 As a matter of fact and record, the ground raised in the application, is that alongwith the counter claim no original documents have been filed and therefore, the original plaintiff could not be gauge why the counter claim has been filed. It is settled law, that any of the parties may or may not rely upon document(s). Ld.advocate for the original plaintiff could not site any provision whereby for want of filing of any documents muchless original documents, the plaint inthe counter claim has to be rejected straight way. The stage to produce the documents may be till framing of the issues. The production of the documents beyond that stage may be necessiated in the peculiar facts and circumstances such as subsequent event or any decision in the parallel proceedings etc., or the like.

10 So far as the final ground is concerned, the counter claim specifically mentions the cause of action, which is a bundle of facts and why the counter claim, has been pleaded therein. The original plaintiff has objected to the counter claim and therefore, this may be a ground of defence. The application sans merit and made with intent to delay the proceedings. The application has to be rejected by imposing costs. The point for determination is answered. Costs follows the event. Hence, the following

### **Order**

The application stands rejected with costs of Rs. 500/- payable to the other side forthwith.

Jath

Date: 06/02/2026

(Sanjay P. Bunde)

Jt.CJJD, Jath