

IN THE COURT OF THE DISTRICT MUNSIF OF UDHAGAMANDALAM

Present: **Thiru. L.PRAKASH., B.Sc., B.L.,**
DISTRICT MUNSIF, UDHAGAMANDALAM.

Saturday, the 06th day of December 2025

I.A. No. 01 of 2025
in
O.S. No. 76 of 2020
(C.N.R. No. TNNS030 – 00112 - 2020)

Sarath Kumar

... Petitioner/ 2nd Defendant

/VS/

K. Subramani

... Respondent/Plaintiff

This petition came on 26.11.2025 for final hearing before me in the presence of Mr. D. Jeyaraman, learned Counsel for the Petitioner and of Mr. B.S. Sivakumar, learned Counsel appearing for the Respondent, upon considering case records carefully, this court passes the following

ORDER

1. This petition is filed under Sections 148 and 151 of the Code of Civil Procedure, praying to permit the petitioner/ 2nd defendant to file his accompanying counter claim.

Gist of Petition and affidavit:

2. The brief averment of petition is that, the petitioner is the 2nd defendant in the above suit, the respondent/plaintiff has filed the above suit for a bare injunction against the petitioner, when the suit was posted for trial the respondent/plaintiff got

the plaintiff amended to add one more relief of declaration of title to the property, after the amendment, the nature of the suit has been changed and raised new issues, and led the plaintiff to disturb the petitioner's possession. The petitioner intends to file a new and strong defense by way of counter claim against the new relief sought by the plaintiff. The petitioner seeks a relief of permanent injunction against the respondent/plaintiff to protect his rights and possession in property due to the respondent's sudden and continues threat, though the petitioner is entitled to file a separate suit, would cause multiplicity of proceedings for the same property, therefore the petitioner filed the accompanying counter claim against the respondent/plaintiff. Unless the petition is allowed, the petitioner will be put to great hardship and irreparable loss, the respondent will not be prejudiced by way of petitioner's counter claim, hence prays to allow this petition.

Gist of Counter Statement:

3. On the Respondent's side, endorsed to allow this petition on heavy cost. Hence, there is no counter statement on the respondents' side.

Discussion:

4. Heard the petitioner's side, case records perused carefully. On perusal of records it is found that the suit was originally one for bare injunction and had progressed to the stage of trial. Only thereafter the plaintiff amended the plaint by introducing a new and substantive relief of declaration. Such amendment has necessarily widened the scope of the suit and created fresh issues as reflected in the framing of additional issues on 08.10.2025. The counter claim now sought to be filed relates to a cause of action that, according to the petitioner, arose on 26.10.2025, which is subsequent to the amendment of the plaint. It is also asserted that the property involved in the counter claim is different from the suit property in the original plaint. The question is whether such a counter claim is maintainable.

5. The Hon'ble Supreme Court in *Ashok Kumar Kalra v. Surendra Agnihotri*, (2020) 2 SCC 394, held that Order 8 Rule 6A CPC permits a defendant to raise “any right or claim” based on an independent cause of action that accrues before the defendant has delivered his defence, and that a counter claim need not arise out of or be connected with the plaintiff’s cause of action. The Honourable Supreme Court further held that the Court has discretion to permit filing of a counter claim even at a later stage if the ends of justice so require, especially to avoid multiplicity of litigation.

6. Similarly, in *Ramesh Chand Ardawatiya v. Anil Panjwani*, (2003) 7 SCC 350, the Hon’ble Supreme Court held that a counter claim is in the nature of a cross suit and can be based on a cause of action independent of the plaintiff’s suit. It was also held that even where the plaint has been amended and new issues have been introduced, the Court may permit filing of a counter claim to ensure complete adjudication of disputes between the parties.

7. The principle laid down in these decisions makes it clear that the fact that the cause of action in the counter claim is different or that the property is not the same as the property in the original suit does not bar the counter claim, so long as the counter claim is directed against the plaintiff and the cause of action has arisen before the defendant has closed his defence or within such extended time as the Court may grant. Further, the object behind the provision is to avoid multiplicity of suits and to enable the Court to adjudicate all connected disputes in a single proceeding. The present counter claim arises from an alleged cause of action on 26.10.2025, i.e., before commencement of trial on the additional issues framed after amendment. Considering that the plaint amendment has significantly enlarged the scope of the suit, the petitioner cannot be denied the opportunity to place his corresponding claim

for adjudication.

8. The respondent/plaintiff has also endorsed no objection to allowing the petition, subject to costs. In view of the above legal position, and considering the stage of the proceedings, the nature of the amendment made by the plaintiff, the date of cause of action stated in the counter claim, and the necessity to avoid multiplicity of proceedings, this Court is of the view that the petitioner deserves to be permitted to file the counter claim.

9. Accordingly, this court inclines to allow this petition on a reasonable cost of Rs.750/- (Rupees Seven Hundred and Fifty only) to the respondent.

RESULT

10. In the result this petition will be allowed on payment of cost of Rs.750/- (Seven Hundred and Fifty Only) to the respondent on or before 16.12.2025. For compliance of condition call on 16.12.2025.

This order is dictated to the steno - typist, typed by her in computer, corrected by me and pronounced by me in the open court on this 06th day of December 2025.

**District Munsif,
Udhagamandalam.**

Draft/Fair Order:

I.A. No.01/2025
in
O.S. No. 76/2020

Dated: **06.12.2025**

**District Munsif Court,
Udhagamandalam.**