

In The Court of Civil Judge (Junior Division)

Lalbagh, Murshidabad

T.S 284/2019

Present: Afshan Nawaz Warsi.

Civil judge(Jr. Div), Lalbagh.

J.O. Code-WB-1432

Order No.19, Dated 04/04/2023

Today is fixed for hearing of the petition filed under section 153 of CPC and W.O. if any.

Both sides file hajira.

Heard both sides.

Perused the petition, the W.O. and the other materials available on record.

Considered.

On hearing both the sides, it appears that the Ld. Advocate on behalf of the defendant has filed the instant petition for counter claim under Order VIII Rule 6(a) of CPC. The petitioner pleaded that the written statement was filed on 29.09.20 and additional W.S was filed on 03.10.20. That on 12.10.90 the predecessor of the petitioners namely Munni Mondalani has transferred 1.79 acre in the suit property in favour of the petitioners. That the LR is also duly published in their names. No objection has been raised by the other side.

On perusal of the case record it appears that the instant petition for counter claim has been filed after a period of two years from the date of filing the W.S. However, no objection has been raised by the other side. Taking into consideration that Rule 6(a) allows the defendant to set up counter claim in respect of a cause of action accruing to the defendant against the plaintiff, liberty should be granted as the issues have not yet been framed and the evidence has not started. However, the plaintiff would be at liberty to file their written statement in an answer to the counter claim.

Fix **09.08.2023** for filing of Written statement.

D/C by me,

**Civil Judge (Junior Division),
Lalbagh**

**Civil Judge (Junior Division),
Lalbagh**